



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शिमला, शनिवार, 7 जुलाई, 2007/16 आषाढ़, 1929

हिमाचल प्रदेश सरकार

**HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION
SHIMLA**

NOTIFICATION

Shimla-171002, the 28th June, 2007

No. HPERC/MYT/476/01.—In exercise of powers vested under sub-sections (zd), (ze) and (zf) of Section 181 (2) read with Sections 61, 62 and 86 of the Electricity Act, 2003 (36 of 2003) and all powers enabling it in that behalf, the Himachal Pradesh Electricity Regulatory Commission proposes to make the following draft Regulations for specifying the terms and conditions for determination of wheeling tariff and retail supply tariff, which are hereby published as required by rule 3 of the Electricity (Procedure for Previous Publication) Rules, 2005 and by sub-section (3) of section 181 of the said Act, for the information of all the persons likely to be affected thereby; and notice is hereby given that the said Draft Regulations will be taken into consideration after the expiry of thirty days from the date of their publication in the Rajpatra, Himachal Pradesh, together with any objections or suggestions which may within the aforesaid period be received in respect thereto.

The objections or suggestions in this behalf should be addressed to the Secretary, Himachal Pradesh Electricity Regulatory Commission, Keonthal Commercial Complex, Khalini, Shimla-171002.

DRAFT REGULATIONS**PART I****PRELIMINARY**

1. Short title and commencement.— (1) These Regulations shall be called the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2007.

(2) These Regulations shall come into force from the date of their publication in the Rajpatra, Himachal Pradesh.

2. Scope and extent of application.— (1) These Regulations shall apply where the capital cost based tariff is determined by the Commission.

(2) Where tariff has been determined through the process of bidding in accordance with the guidelines issued by the Central Government, the Commission shall adopt such tariff in accordance with the provisions of the Act.

(3) These Regulations shall extend to the whole of the State of Himachal Pradesh.

3. Definitions and interpretation.— (1) In these Regulations, unless the context otherwise requires,—

(a) "Act" means the Electricity Act, 2003 (36 of 2003);

(b) "Aggregate Revenue Requirement or ARR" means the costs pertaining to the Licenced business which are permitted, in accordance with these Regulations, to be recovered from the tariffs and charges determined by the Commission;

(c) "Allocation Statement" means for each Financial Year, a statement in respect of each of the businesses (Wheeling, Retail Supply, Other Business) of the Licensee, showing the amounts of any revenue, cost, asset, liability, reserve or provision etc, which has been either,—

(i) determined by apportionment or allocation between different businesses of the Licensee including the Licenced Business, together with a description of the basis of the apportionment or allocation; or

(ii) charged from or to each such Other Business together with a description of the basis of that charge;

(d) "Base Year" means the Financial Year immediately preceding first year of the Control Period and used for purposes of these Regulations;

(e) "Commission" means the Himachal Pradesh Electricity Regulatory Commission;

- (f) **"Conduct of Business Regulations"** means the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005;
- (g) **"Control Period"** means a multi year period fixed by the Commission from time to time, usually 5 years for which the principles of determination of revenue requirement and tariff will be fixed. However, the first control period shall of the duration of 3 years;
- (h) **"Distribution Business"** means authorised business of a Distribution Licensee to operate and maintain a distribution system for supplying of electricity to the consumers in an area of supply;
- (i) **"Financial Year"** means a period commencing on 1st April of a calendar year and ending on 31st March of the subsequent calendar year;
- (j) **"Licence"** means a Licence granted under Section 14 of the Act;
- (k) **"Licenced Business"** shall mean the functions and activities, which the Licensee is required to undertake in terms of the Licence granted or being a deemed Licensee under the Act;
- (l) **"Licensee"** means a person who has been granted a Licence and shall include a deemed Licensee;
- (m) **"Non-Tariff Income"** means income relating to the Licenced business other than from tariff (Wheeling and Retail Supply), and excluding any income from Other Business, cross-subsidy surcharge and additional surcharge;
- (n) **"Other Business"** means any business of the Licensee other than the Licenced Business;
- (o) **"Retail Supply Business"** means the business of sale of electricity by a Distribution Licensee to the category of consumers within the area of supply in accordance with the terms of the Licence for distribution and retail supply of electricity;
- (p) **"Retail Supply Tariff"** is the rate charged by the Distribution Licensee for supply to Non-open access Customers which includes charges for Wheeling and Retail Supply;
- (q) **"State"** means the State of Himachal Pradesh;
- (r) **"State Government"** means the Government of the State of Himachal Pradesh;
- (s) **"Trading Business"** means the authorised business of an electricity trader in the area of operation allowed under the Trading Licence granted;
- (t) **"Trading Licence"** means the Licence granted under section 14 of the Act to undertake trading in electricity;
- (u) **"Wheeling"** means the operation whereby the distribution system and associated facilities of a Distribution Licensee, are used by another person for the conveyance of electricity on

payment of charges to be determined under section 62;

- (v) **“Wheeling Business”** means the business of operating and maintaining a distribution system for conveyance of electricity in the area of supply of the Distribution Licensee.

(2) Words and expressions used and not defined in these Regulations but defined in the Act shall have the meanings respectively assigned to them in the Act.

PART-II

GUIDING PRINCIPLES

4. General approach.—(1) In accordance with the principles laid out in these Regulations, the Commission shall determine the tariff for—

- (a) Wheeling of electricity, *i.e.* Wheeling Tariff;
- (b) Retail sale of electricity, *i.e.* Retail Supply Tariff.

Provided that in case of distribution of electricity in the same area by two or more Distribution Licensees, the Commission may, for promoting competition among Distribution Licensees, fix only maximum ceiling of tariff for retail sale of electricity:

Provided further that where the Commission has permitted open access to any category of consumers under section 42 of the Act, the Commission shall determine the Wheeling Tariff, cross-subsidy surcharge, additional surcharge and other open access related charges in accordance with these Regulations and Himachal Pradesh Electricity Regulatory Commission (Cross Subsidy Surcharge, Additional Surcharge and Phasing of Cross Subsidy) Regulations, 2006.

(2) In accordance with the principles laid out in these Regulations, the Commission shall determine the Aggregate Revenue Requirement (ARR) and Tariff for—

- (a) Wheeling Business; and
- (b) Retail Supply Business.

(3) The ARR determined for the Wheeling Business shall be used to fix the Wheeling Tariff.

(4) The ARR determined for Retail Supply Business shall be used to fix the Retail Supply Tariff for retail sale of electricity.

(5) Tariff determined by the Commission and the directions given in the tariff order by the Commission shall be the quid pro quo and mutually inclusive. The tariff determined shall, within the period specified by it, be subject to the compliance of the directions to the satisfaction of the Commission and their non-compliance shall lead to such amendment, revocation, variations and alterations of the tariff, as may be ordered by the Commission.

(6) The tariff order shall unless amended or revoked, continue to be in force for such period as may be specified in the tariff order. In the event of failure on the part of the Licensee to file the Aggregate Revenue Requirement (ARR) under Part IV, the tariff determined by the Commission shall cease to operate, unless allowed to be continued for a further period with such variations, or modifications, as may be ordered by the Commission.

5. Multi year tariff (MYT) framework.—The Commission shall adopt Multi Year Tariff framework for approval of ARR and expected revenue from tariffs and charges for the first control period. The Multi Year Tariff framework shall be based on the following:

- (a) Business Plan of the Distribution Licensee for the entire Control Period to be submitted to the Commission for approval, prior to the start of the Control Period;
- (b) Applicant's forecast of expected Wheeling Tariff and Retail Supply Tariff for each year of the Control Period, based on reasonable assumptions of the underlying financial and operational parameters, as submitted in the Business Plan;
- (c) Trajectory for specific parameters shall be stipulated by the Commission, where the performance of the applicant is sought to be improved through incentives and disincentives;
- (d) Annual review of performance shall be conducted *vis-à-vis* the approved forecast and categorization of variations in performance into controllable factors and uncontrollable factors;
- (e) Profit sharing shall be applied on the profits arising from the Distribution Licensee's better performance *vis-à-vis* AT&C loss targets specified by the Commission;
- (f) Variation in revenue/cost on account of uncontrollable factors like sales and power purchase shall be trued up.

6. Segregation of wheeling and retail supply business.—(1) The Distribution Licensee shall segregate the accounts of the Licenced business into Wheeling Business and Retail Supply Business. The ARR for Wheeling Business shall be used to determine Wheeling Charges and the ARR for Retail Supply Business to determine Retail Supply Tariff.

(2) For such period until accounts are segregated, the Licensees shall prepare an Allocation Statement to apportion costs and revenues to respective business. The Allocation Statement, approved by the Board of Directors/Whole Time Members of the Licensee, shall be accompanied with an explanation of the methodology which should be consistent over the Control Period.

7. Determination of baseline.—(1) The baseline values (operating and cost parameters) for the Control Period shall be determined by the Commission and shall be based on the approved values by the Commission, latest audited accounts, estimate of the actuals for the relevant year, prudence check and other factors considered appropriate by the Commission.

(2) The Commission shall not revisit the performance targets, once determined even if the targets are fixed on the basis of un-audited accounts.

8. Targets for controllable parameters.—(1) The Commission shall set targets for each year of the Control Period for the items or parameters that are deemed to be “controllable” and which include;

- (a) AT&C Loss, which shall be measured as the difference between the units input into the distribution system and the units realised (units billed and collected) wherein the units realised shall be equal to the product of units billed and collection efficiency;
- (b) Distribution losses, which shall be measured as the difference between total energy input for sale to all its consumers and sum of the total energy billed in its Licence area in the same year;
- (c) Collection efficiency, which shall be measured as ratio of total revenue realised to the total revenue billed for the same year. The revenue realisation from arrears relating to prior period, electricity duty and late payment surcharge shall be included for computation of collection efficiency;
- (d) Operation and Maintenance Expenditure which includes employee expenses, repairs and maintenance expenses, administration and general expenses and other miscellaneous expenses viz. audit fees, rents, legal fees etc;
- (e) Financing Cost which includes cost of debt including working capital (interest), cost of equity (return);
- (f) Depreciation;
- (g) Quality of Supply.

(2) The target AT&C loss levels for the State to be achieved by the Distribution Licensees at the end of the Control Period shall be 15%:

Provided that the year wise loss reduction trajectory for the Control Period shall be fixed for the Distribution Licensee in the Multi Year Tariff Order:

Provided that profits arising from achieving loss level better than specified in the loss reduction trajectory shall be equally shared between the Licensee and Contingency Reserve.

(3) Any financial loss on account of under performance with respect to AT&C targets shall be to the Licensee's account.

9. Sales forecast.—(1) The Commission based on the Licensee's filings, shall examine the forecasts for reasonableness and consistency, and shall approve the sales forecast for each year of the Control Period.

(2) Sales shall be treated as uncontrollable. The open access transactions shall not form part of sales.

(3) Power purchase quantum and cost for any Financial Year shall be computed on the basis of AT&C loss targets and the estimated sales.

10. Capital investment.—(1) The Commission shall approve capital investment plan of the Licensees for the Control Period commensurate with load growth, distribution loss reduction and quality improvement proposed in the Business Plan. The investment plan shall also include corresponding capitalisation schedule and financing plan.

(2) The Commission shall review the actual capital investment at the end of each year of the Control Period. Adjustment to depreciation and Financing Cost for the actual capital investment *vis-à-vis* approved capital investment shall be done at the end of Control Period.

11. Quality of supply and customer service.—The quality of supply and the customer service parameters shall be monitored as per the norms to be prescribed by the Commission separately from time to time. For certain parameters as mentioned in regulation 38 of these Regulations, the Commission shall monitor Licensee's performance with respect to the targets specified.

12. True up.—The true up across various controllable and uncontrollable parameters shall be conducted as per principle stated below:

- (a) Variation in revenue/expenditure on account of uncontrollable sales and power purchase shall be trued up every year;
- (b) For controllable parameters:
 - (i) Any surplus or deficit on account of O&M expenses shall be to the account of the Licensee and shall not be trued up in ARR; and
 - (ii) Depreciation and Financing Cost which includes cost of debt including working capital (interest), cost of equity (return) shall be trued up at the end of Control Period.

13. Contingency Reserve.—(1) These Regulations provide for maintaining tariff stability and passing the benefits achieved to the consumers under the Multi Year Tariff framework via Contingency Reserve.

(2) The Licensee shall create a Contingency Reserve at the beginning of the Control Period. The revenue surplus, if any, generated by Licensee in and up to FY 2007-08 shall be transferred to Contingency Reserves at the beginning of the Control Period.

(3) The Licensee shall maintain separate accounts in their books and reflect the balance in the Contingency Reserve Account in the balance sheet. There shall be yearly additions and draws to/from these Contingency Reserve account based on the annual review and performance of the Licensee.

(4) Fund under Contingency Reserve shall be kept in a separate bank account and shall be effectively invested and managed to earn returns based on market conditions ensuring adequate liquidity. This fund shall not be utilized for speculative purposes. The use of these funds in any other manner shall be only with the prior approval of the Commission.

PART-III

PRINCIPLES FOR DETERMINATION OF AGGREGATE REVENUE REQUIREMENT (ARR)

14. ARR for distribution business.—The Aggregate Revenue Requirement of the Distribution Licensees for each year of the Control Period, shall contain the following items;

- (a) Cost of power procurement;
- (b) Transmission & Load Dispatch charges;
- (c) Operation and Maintenance expenses;
- (d) Financing Cost which includes cost of debt including working capital (interest), cost of equity (return);
- (e) Depreciation;
- (f) Income Tax;
- (g) Non-Tariff Income; and
- (h) Income from Other Business.

15. Cost of power procurement.—(1) Quantum of Power Purchase—The Licensee shall forecast sales for each customer category and sub-categories for all years of the Control Period in their Business Plan filings, for the Commission's review and approval. The Commission approved category-wise sales forecast shall be applied along with AT&C loss trajectory for estimating the Licensees' power procurement requirement for each year of the Control Period.

(2) Distribution Licensee shall be allowed to recover the cost of power it procures from sources approved by the Commission, viz. Intra-state and Inter-state Trading Licensees, Bilateral Purchases, Bulk Suppliers, State generators, Independent Power Producers, Central generating stations, renewable and co-generation sources, generation business of the Distribution Licensee and others, for supply to consumers of Retail Supply Business:

Provided that the Distribution Licensee shall propose the cost of power procurement taking into account the fuel adjustment formula specified for the generating stations and net revenues through bilateral exchanges and Unscheduled Interchange (UI) transactions:

Provided further that where the Licensee utilises a part of the power purchase approved or bulk supply allocated or contracted for the Retail Supply Business for its Trading Business, the Distribution

Licensee shall provide an Allocation Statement clearly specifying the cost of power purchase that is attributable to such trading activity.

16. AT & C losses.—(1) The Licensee shall propose circle-wise baseline AT&C loss levels and loss reduction trajectory for each year of the Control Period based on targets specified in regulation 8 of these Regulations. For any year of the Control Period, loss reduction should be at least 25% of the total loss reduction target for the Control Period. The Commission shall examine the filings made by the Licensee for the AT&C loss trajectory for each year of the Control Period and approve the same with modification as considered necessary.

(2) In case the actual AT&C loss is worse than the loss level approved by the Commission, the Licensee has to absorb the financial loss arising from such performance.

17. Distribution loss.—(1) The Licensee shall propose baseline distribution loss levels and loss reduction trajectory for each year of the Control Period.

(2) The Distribution Licensee shall also propose voltage-wise losses for each year of the Control Period for the determination of voltage-wise cost of supply and determination of voltage-wise Wheeling Tariff. The Commission shall examine the filings made by the Licensee for the distribution loss trajectory for each year of the Control Period approve the same with modification as considered necessary.

18. Transmission, load despatch charges.—The Distribution Licensee shall be allowed to recover transmission and load despatch charges payable to the Transmission Licensees (Central Transmission Utility, State Transmission Utility etc.) and System Operators (Regional Load Despatch Centre, State Load Despatch Centre etc.) for access to and use of the inter-State transmission system, intra-State transmission system and availing load despatch services in accordance with the tariffs approved from time to time by CERC and appropriate State Commissions, as the case may be.

19. Operation and maintenance (O & M) expenses.— (1) Operation and Maintenance (O&M) expenses shall include:

- (a) Salaries, wages, pension contribution and other employee costs;
- (b) Administrative and General expenses;
- (c) Repairs and Maintenance; and
- (d) Other miscellaneous expenses, statutory levies and taxes (except corporate income tax).

(2) The Licensee shall submit the O&M expenses for the Control Period as prescribed in multiyear tariff filing procedure. The O&M expenses for the Base Year shall be approved by the Commission taking into account the latest available audited accounts, business plan filed by the Licensees, estimates of the actuals for the Base Year, prudence check and any other factor considered appropriate by the Commission.

(3) O&M expenses permissible towards ARR for each year of the Control Period shall be determined using the formula detailed below. The R&M expenses are linked to the Gross Fixed Assets, while the employee expenses and A&G expenses are linked to an Inflation Index, as shown below:

$$(a) \quad O\&M_n = (R\&M_n + EMP_n + A\&G_n) * (1 - X_n)$$

- (i) Where, $R\&M_n = K * GFA_{n-1}$;
- (ii) $EMP_n + A\&G_n = (EMP_{n-1} + A\&G_{n-1}) * (INDX_n / INDX_{n-1})$; and
- (iii) $INDX_n = 0.55 * CPI_n + 0.45 * WPI_n$

Where,

'K' is a constant (could be expressed in %) governing the relationship between O&M costs and gross fixed assets (GFA) for the nth year. Value of K shall be determined by the Commission in the MYT Tariff Order based on Licensee's filing, benchmarking, approved cost by the Commission in past and any other factor the Commission feels appropriate;

$INDX_n$ - Inflation Factor to be used for indexing and shall be taken as the above given combination of the Consumer Price Index (CPI) and the Wholesale Price Index (WPI);

EMP_n - Employee Costs of the Licensee for the nth year;

$A\&G_n$ - Administrative and General Costs of the Licensee for the nth year;

$R\&M_n$ - Repair and Maintenance Costs of the Licensee for the nth year;

X_n is an efficiency factor for nth year. Value of X_n shall be determined by the Commission in the MYT Tariff Order based on Licensee's filings, benchmarking, approved cost by the Commission in past and any other factor the Commission feels appropriate.

20. Asset base.—(1) The Commission shall determine the Asset Base for each year of the control period at the beginning of the control period, which shall be:

Sum of:

- (a) The Asset Base of the Base Year as determined by the Commission considering the most recent audited accounts, estimates of actuals during the base year checked for prudence and any other factors considered appropriate by the Commission.
- (b) Proposed capitalisation during the year, checked for prudence covering (i) schemes for which Commission's approval has been granted, (ii) schemes which have been submitted for Commission's approval and (iii) schemes not requiring Commission's approval.

Less:

- (c) Assets proposed to be retired during the year.

(2) The interest on loan capital and return on equity shall be computed on the financing of the cost of schemes included in the asset base.

21. Debt-equity ratio. - (1) For the purpose of determination of tariff, debt-equity ratio as on the date of commercial operation in case of new distribution line or substation commissioned or capacity expanded shall be 70:30. The debt equity amount arrived in accordance with this clause shall be used for calculation of interest on loan and return on equity.

(2) Where equity employed is in excess of 30%, the amount of equity for the purpose of tariff shall be limited to 30% and the balance amount shall be considered as loan. The interest rate applicable on the equity in excess of 30% treated as loan has been specified in regulation 23. Where actual equity employed is less than 30%, the actual equity shall be considered.

22. Return on equity. - (1) Return on equity shall be computed on the paid up equity capital determined in accordance with regulation 21 and shall be 16% per annum (post tax):

Provided that return on equity invested in work in progress shall be allowed from the date of commercial operation.

(2) The premium raised by the licensee while issuing share capital and investment of internal resources created out of free reserve, if any, shall also be reckoned as equity for the purpose of computing return on equity, provided such premium amount and internal resources are actually utilised for meeting capital expenditure. For the purposes of calculation of computation of return, the portion of free reserves utilized for meeting the capital expenditure shall be considered from the date the asset created is productively deployed in the distribution business.

(3) Equity invested in foreign currency shall be allowed a return upto the prescribed limit in the same currency and the payment on this account shall be made in Indian rupees based on the exchange rate prevailing on the due date of billing.

23. Interest and finance charges. (1) Interest and finance charges on loan capital shall be computed on the outstanding loans, duly taking into account the schedule of repayment, as per the terms and conditions of relevant agreements of loan, bond or non convertible debentures. Exception can be made for the existing or past loans which may have different terms as per the agreements already executed if the Commission is satisfied that the loan has been contracted for and applied to identifiable and approved projects. For the purpose of tariff determination, the outstanding debt at the end of each year of the Control Period shall be taken as:

Outstanding debt at the end of n^{th} year = Outstanding debt at the end of $(n-1)^{\text{th}}$ year + sum of amount of debt related to assets capitalized under each investment scheme during n^{th} year - debt repaid during n^{th} year;

For the first year of the control period, $(n-1)^{\text{th}}$ year shall be the base year; -

Amount of debt related to assets capitalized under an investment scheme during n^{th} year = (70% or actual, whichever is higher) * (amount of capitalisation approved by the Commission for such scheme in n^{th} year).

Provided that all loans considered for this purpose shall be identified with the assets created:

Provided that interest and finance charges of re-negotiated loan agreements shall not be considered, if they result in higher charges:

Provided further that interest and finance charges on works in progress shall be excluded and shall be considered as part of the capital cost:

Provided further that neither penal interest nor overdue interest will be allowed for computation of Annual Revenue Requirement;

(2) The interest rate on the amount of equity in excess of 30% treated as notional loan shall be the weighted average rate of the loans of the respective years and shall be further limited to the prescribed rate of return on equity in the Regulation.

(3) In case any moratorium period is availed of in any loan, depreciation provided for in the tariff during the years of moratorium shall be treated, as repayment during those years and interest on loan capital shall be calculated accordingly.

(4) The Distribution Licensee shall make every effort to refinancing the loan as long as it results in net benefit to the consumers. The cost associated with such refinancing shall be borne by the consumers and any benefit on account of refinancing of loan and interest on loan shall be shared in the ratio of 1/3rd with the Licensee and 2/3rd in the Contingency Reserve. The licensee shall submit the calculation of such benefit to the Commission for its approval.

(5) In respect of foreign currency loans, variation in rupee liability due to foreign exchange rate variation, towards interest payment and loan repayment actually incurred, in the relevant year shall be admissible; provided it directly arises out of such foreign exchange rate variation and is not attributable to the Licensee or its suppliers or contractors.

24. Interest charges on working capital.—Rate of interest on working capital to be computed as provided subsequently in these Regulations shall be on normative basis and shall be equal to the short-term Prime Lending Rate of SBI as on April 1 of the relevant year. The interest on working capital shall be payable on normative basis notwithstanding that the licensee has not taken working capital loan from any outside agency or has exceeded the working capital loan based on the normative figures. The Commission shall calculate Working Capital requirement for Wheeling Business as mentioned in regulation 32 and Retail Supply Business as mentioned in regulation 34 to arrive at Working Capital requirement of Distribution Licensee.

25. Depreciation.—(1) Depreciation shall be calculated for each year of the Control Period, on the amount of Original Cost of the Fixed Assets of the corresponding year:

Provided that depreciation shall not be allowed on assets funded by any capital subsidy/grant.

(2) Depreciation for each year of the Control Period shall be determined based on the methodology as specified in these Regulations alongwith the rates and other terms specified in Appendix 1 of these Regulations.

(3) Depreciation shall be calculated annually, based on the straight line method, over the useful life of the asset. The base value for the purpose of depreciation shall be original cost of the asset.

(4) The residual value of assets shall be considered as 10% and depreciation shall be allowed to a maximum of 90% of the original cost of the asset. Land is not a depreciable asset and its cost shall be excluded while computing 90% of the original cost of the asset.

(5) Depreciation shall be charged from the first year of operation of the asset. In case, the operation of the asset is for a part of the year, depreciation shall be charged on a pro rata basis.

26. Corporate income tax.—(1) Income Tax, if any, on the Licenced business of the Distribution Licensee shall be treated as expense and shall be recoverable from consumers through tariff. However, tax on any income other than that through its Licenced business shall not be a pass through, and it shall be payable by the Distribution Licensee itself.

(2) The income tax actually payable or paid shall be included in the ARR. The actual assessment of income tax should take into account benefits of tax holiday, and the credit for carry forward losses applicable as per the provisions of the Income Tax Act 1961 shall be passed on to the consumers.

(3) Tax on income, if any, liable to be paid shall be limited to tax on return on equity. However any tax liability on incentives due to improved performance shall not be considered.

27. Non-tariff income.—(1) All incomes being incidental to electricity business and derived by the Licensee from sources, including but not limited to profit derived from disposal of assets, rents, delayed payment surcharge, meter rent (if any), income from investments other than contingency reserves, miscellaneous receipts from the consumers and income to Licenced business from the Other Business of the Distribution Licensee shall constitute Non-Tariff Income of the Licensee.

(2) Interest on security deposits, in excess of the rate specified by the Commission shall be considered as Non Tariff income of the Licensees.

(3) The amount received by the Licensee on account of Non-Tariff Income shall be deducted from the aggregate revenue requirement in calculating the net revenue requirement of such Licensee.

28. Other income of licensee.—Where the Licensee is engaged in any other business, the income from such business will be calculated as per “Himachal Pradesh Electricity Regulatory Commission (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulations 2005” and shall be deducted from the Aggregate Revenue Requirement in calculating the revenue requirement of the Licensee:

Provided that the Licensee shall follow a reasonable basis for allocation of all joint and common costs between the Distribution Business and the Other Business and shall submit the Allocation Statement as approved by the Board of Directors to the Commission along with his application for determination of tariff; Provided further that where the sum total of the direct and indirect costs of such Other Business exceed the revenues from such Other Business or for any other reason, no amount shall be allowed to be added to the aggregate revenue requirement of the Licensee on account of such Other Business.

29. Net aggregate revenue requirement.—(1) The Net Aggregate Revenue Requirement of the Licensee eligible for recovery during each year of the Control Period shall be determined after deducting from the Aggregate Revenue Requirement, the Non-Tariff Income and Other Income.

(2) For determination of Wheeling Charges for Open Access Customers, the ARR for the Distribution Licensee shall be segregated into ARR for Wheeling Business and ARR for Retail Supply Business.

30. ARR for wheeling business.—The Aggregate Revenue Requirement for the Wheeling Business of Distribution Licensees for each year of the Control Period, shall contain the following items:—

- (a) Operation and Maintenance expenses;
- (b) Financing Cost which includes cost of debt including working capital (interest), cost of equity (return);
- (c) Depreciation;
- (d) Income Tax;
- (e) Non-Tariff Income; and
- (f) Income from Other Business.

31. Return on equity.—(1) Return on equity shall be computed on the paid up equity capital determined in accordance with regulation 21 and shall be 14% per annum (post tax):

Provided that return on equity invested in work in progress shall be allowed from the date of commercial operation.

(2) The premium raised by the licensee while issuing share capital and investment of internal resources created out of free reserve, if any, shall also be reckoned as equity for the purpose of computing return on equity, provided such premium amount and internal resources are actually utilised for meeting capital expenditure. For the purposes of calculation of computation of return, the portion of free reserves utilized for meeting the capital expenditure shall be considered from the date the asset created is productively deployed in the distribution business.

(3) Equity invested in foreign currency shall be allowed a return upto the prescribed limit in the same currency and the payment on this account shall be made in Indian rupees based on the exchange rate prevailing on the due date of billing.

32. Working capital.—The Commission shall calculate the Working Capital requirement for the Wheeling Business containing the following components:

- (a) O&M expenses for 1 month; and
- (b) Receivables for two months of the Wheeling Charges received less consumer security deposit if any.

33. ARR for Retail Supply Business.—The Aggregate Revenue Requirement for the Retail Supply Business of the Distribution Licensee, for each year of the Control Period, shall contain the following items;

- (a) Cost of power procurement;
- (b) Transmission & Load Despatch charges;
- (c) Interest on Working Capital; and
- (d) Supply Margin.

34. Working capital.—Working capital for retail supply of electricity shall consist of-

- (a) Receivables for two months of revenue from sale of electricity; and
- (b) Operation and maintenance expenses for one month;
- (c) Less: power purchase costs for one month.

35. Supply margin.—(1) The Commission shall lay down a retail supply margin for the Retail Supply Business in MYT order based on the Allocation Statement provided by the Distribution Licensee. The costs allocated to Retail Supply Business as per Allocation Statement shall be considered while determining supply margin after exercising prudence check.

(2) The Commission shall lay down the retail supply margin in such manner that the return from the Wheeling Business and Retail Supply Business shall not exceed 16% of equity.

36. Truing Up Mechanism.—(1) Notwithstanding anything contained in this Regulation, the gains or losses in the controllable items of ARR on account of *force majeure* factors shall be passed on as an additional charge or rebate in ARR over such period as may be specified in the Order of the Commission.

(2) Variations on account of uncontrollable items like energy sales and power purchase cost shall be trued up. Truing-up shall be carried out for each year based on the actual/audited information and prudence check by the Commission:

Provided that if such variations are large, and it is not feasible to recover in one year alone, the Commission may take a view to create a regulatory asset, as per the guidelines provided in clause 8.2.2 of the National Tariff Policy.

(3) These Regulations also provide for creation of a Contingency Reserve (CR) at the beginning of the Control Period in the ARR. The Licensee shall be permitted to use funds from such provision, with the prior approval of the Commission, to compensate the uncontrollable variations instead of tariff adjustments and thereby ensuring tariff stability in the Control Period.

(4) The Commission, to ensure tariff stability, may include the trued-up costs in the subsequent Control Period's ARR instead of including in the year succeeding the relevant year of the Control Period.

37. Income from Cross-Subsidy Surcharge and Additional Surcharge on charges of wheeling.—(1) The amount received or to be received by the Licensee on account of cross-subsidy surcharge and additional surcharge, as approved by the Commission from time to time in accordance with the Himachal Pradesh Electricity Regulatory Commission (Cross Subsidy Surcharge, Additional Surcharge and Phasing of Cross Subsidy) Regulations, 2006 shall be shown separately against the consumer category that is permitted open access as per the phasing plan.

(2) Cross-subsidy surcharge and additional surcharge shall be shown as revenue from tariff from the consumer categories permitted open access in accordance with the Himachal Pradesh Electricity Regulatory Commission (Cross Subsidy Surcharge, Additional Surcharge and Phasing of Cross Subsidy) Regulations, 2006 and such amount shall be utilized to meet the cross-subsidy requirements of subsidised categories and fixed costs of the Licensee arising out of his obligation to supply. The Licensee shall provide such details in its annual filings.

38. Quality of Supply and Services.—(1) The quality of supply and the customer service parameters shall be monitored as per the norms specified by the Commission from time to time.

(2) The Licensee shall propose baseline and performance trajectory for all quality parameters as specified in the Himachal Pradesh Electricity Regulatory Commission (Distribution Licensees' Standards of Performance) Regulations, 2005.

(3) The Commission shall make an assessment on reliability of baseline data and may prescribe the performance trajectory for each identified parameter for the Control Period. The Commission shall develop a performance framework to encourage Licensees to improve quality of supply and services.

(4) The Licensee shall submit the performance on each parameter in the form and manner directed by the Commission. The Commission shall conduct periodic reviews on the performance of the Licensee with respect to quality parameters.

PART-IV

MULTI YEAR TARIFF FILING PROCEDURE

39. Multi-Year Filings for the Control Period.—(1) The Multi Year Tariff filing shall be in such form and in such manner as has been specified by the Commission in these Regulations and also as per the provisions of Conduct of Business Regulations.

(2) The Licensee shall also submit the Multi Year Tariff filing in electronic format to the Commission.

40. Beginning of the Control Period - Business Plan Filings.—The Distribution Licensee shall file for the Commission's approval, on or before 30th November of the year preceding the first year of the Control

period or any other date as may be directed by the Commission, a Business Plan approved by the Board of Directors/Whole Time Members. The Business Plan shall be for the entire Control Period and shall, inter alia, contain:

- (a) Sales/Demand Forecast for each customer category and sub-categories for each year of the Control Period;
- (b) AT&C Loss reduction trajectory along with distribution loss trajectory and collection efficiency for each year of the Business Plan;
- (c) Power Procurement Plan based on the sales forecast and distribution loss trajectory for each year of the business plan period. The power procurement plan should also include Energy Efficiency and Demand Side Management measures;
- (d) The Capital Investment Plan shall take into account the sales/demand forecast, power procurement plan, distribution loss trajectory, targets for quality of supply, etc. The investment plan shall be consistent with the perspective plan drawn by the State Transmission Utility, and shall include the corresponding capitalisation schedule and financing plan;
- (e) The appropriate capital structure of each scheme proposed and cost of financing (interest on debt) and return on equity, terms of the existing loan agreements, etc;
- (f) The Operation and Maintenance (O&M) costs estimated for the Base Year and four years prior to the Base Year with complete details, together with the forecast for each year of the Business Plan Period based on the proposed efficiency in operating costs, norms for O&M cost allowance including indexation and other appropriate mechanism;
- (g) Details of depreciation based on the fair life of the asset and capitalisation schedules for each year of the Control Period;
- (h) A set of targets proposed for other controllable items such as collection efficiency, bad debts, working capital, quality of supply targets, etc. The targets shall be consistent with the capital investment plan proposed by the Licensee;
- (i) Proposals for other items such as external parameters used for indexation (inflation, etc);
- (j) The filings in addition to the Business Plan period, shall also contain the data for the cost and revenue parameters for the 2004–2007 period.

41. Annual Filings during the Control Period—ARR and Tariff Filings.—(1) The Distribution Licensee shall file an application for approval of Wheeling Tariff and Retail Supply Tariff for each year of the Control Period, not less than 120 days before the commencement of the first year or subsequent year of the Control Period or such other date as may be directed by the Commission.

(2) The Wheeling Tariff shall be determined for each year of the Control Period at the beginning of the Control Period. The Licensee shall propose capacity based Wheeling Tariff. The Licensee shall also specify the distribution losses voltage-wise to provide for adjustment of losses in the system.

- (3) The filings for Wheeling Tariff shall contain the following:—
- (a) The Distribution system or network usage forecast for each year of the Control Period consistent with the Business Plan;
 - (b) Proposals for computation of tariffs for Wheeling of electricity for each of the years of the Control Period, including the losses and the procedure thereof;
 - (c) Proposals for Non-Tariff Income with item-wise description and details;
 - (d) Proposals in respect of income from Other Businesses like Consultancy Services, Convergence, Training Facilities, etc;
 - (e) The proposed Wheeling Tariff shall be voltage-wise;
 - (f) Expected Revenue from the proposed Wheeling Tariff including additional surcharge etc.
- (4) The filings for Retail Supply Tariff shall contain the following:—
- (a) Licensee shall submit proposal for retail sale of electricity for the consumers pertaining to Retail Supply Business, which shall include tariffs for each consumer category, slab-wise and voltage wise. The proposed tariff may also be based on energy charges, demand charges, minimum charges, etc along with the tariff rationalization measures;
 - (b) Proposals for Non-Tariff Income with item-wise description and details;
 - (c) Each tariff proposal submitted by the Distribution Licensee shall be supported with a cost-of-service model allocating the costs of the Licenced business to each category of consumers based on voltage-wise costs and losses;
 - (d) The proposals of the Licensee should demonstrate that the tariffs are progressively reflecting the cost of supply;
 - (e) Expected Revenue from the proposed Retail Supply Tariff, and other matters considered appropriate by the Distribution Licensee, including incentive schemes to consumers, cross subsidy surcharge, etc.

(5) The Licensee shall furnish to the Commission, such additional information, particulars and documents as the Commission may require from time to time after such filing of revenue calculations and tariff proposals.

(6) The Licensee shall publish for the information of the public, the contents of the application in an abridged form in such manner as the Commission may direct and shall host the complete copy of the filing on its website and shall also provide copies of the documents filed with the Commission to any person at a price not exceeding normal photocopying charges.

42. Review during the Control Period.—(1) The Distribution Licensee shall submit information as part of annual review on actual performance to assess its performance vis-à-vis performance targets approved by the Commission at the beginning of the Control Period.

(2) The Licensee shall submit the revised ARR and corresponding tariff adjustments 120 days before the commencement of the Financial Year. The revised estimates shall be required because of trued-up costs on account of uncontrollable variations, profit sharing mechanism for exceeding the targets, and implementation of performance framework for quality of supply targets.

43. Review at the end of the Control Period.—(1) Towards the end of the Control Period, the Commission shall seek to review if the implementation of the principles laid down in these Regulations has achieved their intended objectives. While doing this, the Commission shall take into account, among other things, the industry structure, sector requirements, consumer and other stakeholder expectations and Licensee's requirements at that point in time. Depending on the requirements of the sector to meet the objects of the Act, the Commission may revise the principles for the second Control Period.

(2) The end of the first Control Period shall be the beginning of the second Control Period and the Licensee shall follow the same procedure unless required otherwise by the Commission. The Commission shall analyse the performance of the Licensee with respect to the targets set out at the beginning of the first Control Period and based on the actual performance, expected efficiency improvements and other factors prevalent, determine the initial values for the next Control Period.

44. Disposal of Application.—(1) The Commission shall process the filings made by the Distribution Licensee in accordance with these Regulations and the Conduct of Business Regulations.

(2) Based on the Distribution Licensees' filings, objections/suggestions from public and other stakeholders, the Commission may within 120 days of the receipt of the application, complete in all respects, and after considering all suggestions and objections from public and other stakeholders:

- (a) issue, a tariff order with such modifications and/or such conditions as may be deemed just and appropriate containing, inter alia targets for controllable items and the approved ARR for the Wheeling Business and the ARR for the Retail Supply Business along with the Wheeling Charges and Retail Supply Tariff for each year of the control period; or
- (b) reject the application for reasons to be recorded in writing if such application is not in accordance with the provisions of the Act and the rules and regulations made thereunder or the provisions of any other law for the time being in force.

45. Periodic Reviews.—(1) To ensure smooth implementation of the Multi Year Tariff (MYT) Framework, the Commission may undertake periodic reviews of Licensees' performance during the Control Period, to address any practical issues, concerns or unexpected outcomes that may arise.

(2) The Distribution Licensee shall submit information as part of annual review on actual performance to assess the performance vis-à-vis the targets approved by the Commission at the beginning of the Control Period. This shall include annual statements of its performance and accounts including latest available audited/actual accounts and the tariff worked out in accordance with these Regulations.

(3) The Licensee shall submit the revised Aggregate Revenue Requirement and corresponding tariff adjustments 120 days before the commencement of the Financial Year.

(4) The Commission may also lay down any modifications to the forecast of the Distribution Licensee for the remainder of the Control Period, with detailed reasons for the same.

PART-V

SUBSIDY

46. Subsidy from the State Government.—(1) The State Government may, at any time as it considers to be appropriate, propose any subsidy to any class or classes of consumers in the tariff determined by the Commission and upon receiving such proposal, the Commission shall determine the amount to be paid as subsidy and the terms and conditions of such payment including the manner of payment of subsidy amounts by the State Government to the person affected by the decision of the subsidy.

(2) While determining the tariff, the Commission shall take into account any subsidies, which the State Government had agreed to give to any class or classes of consumers.

(3) The tariff determined by the Commission shall be published duly taking into account such subsidy offered by the State Government as on the date of the decision of the Commission.

(4) Notwithstanding anything contained in these Regulations, no direction of the State Government shall be operative if the payment is not made by the State Government in accordance with the provisions of section 65 of the Act. In the event of such directions being not operative the amount of subsidy to be made by the State Government shall be added in the tariff to be charged by the licensees to the concerned class or classes of consumers.

(5) The consequential orders which the Commission may issue to give effect to the subsidy that the State Government may provide shall not be construed as amendment of tariff notified. The licensee shall, however, give appropriate adjustments in the bills to be raised on the consumers for the subsidy amount in the manner the Commission may direct.

(6) The bills to the consumers shall distinctively display the per unit cost of supply of electricity to the class of consumer as determined by the Commission, the subsidy, if any, given by the State Government applicable to such class of consumers and per unit amount of such subsidy, the bill amount payable by the consumer and the cross subsidization of the class of the consumer in the tariff made applicable without taking into account of subsidy from the State Government.

(7) The Licensee shall be required to furnish documents to the satisfaction of the Commission that the subsidy amount received by the licensee from the State Government is duly accounted for and utilized for the purpose for which the subsidy is given.

PART-VI

MISCELLANEOUS

47. Publication.—The distribution licensee shall publish the tariff approved by the Commission in the newspapers having circulation in the area of supply as the Commission may direct. The publication shall, besides such other things as the Commission may require, include a general description of the tariff changes and its effect on the classes of the consumers.

48. Issue of Orders and Practice Directions.—(1) Subject to the provision of the Act and these Regulations, the Commission may, from time to time, issue Orders and Practice directions in regard to the implementation of these Regulations and procedure to be followed on various matters, which the Commission has been empowered by these Regulations to direct, and matters incidental or ancillary thereto.

(2) Notwithstanding anything contained in these Regulations, the Commission shall have the authority, either suo motu or on a petition filed by any interested or affected party, to determine the tariff of any Licensee.

49. Powers to remove difficulties.—In case of any difficulty in giving effect to any of the provisions of these Regulations, the Commission may, either suo motu or on an application made to it, do or undertake to do things, or by general or special order direct the licensee to take suitable action, not being inconsistent with the Act, which appears to the Commission to be necessary or expedient for the purpose of removing the difficulty.

50. Power of Relaxation.—The Commission may in public interest and for reasons to be recorded in writing, relax any of the provision of these Regulations.

51. Interpretation.—All issues arising in relation to interpretation of these Regulations shall be determined by the Commission and the decision of the Commission on such issues shall be final.

52. Saving of Inherent Powers of the Commission.—Nothing contained in these Regulations shall limit or otherwise affect the inherent powers of the Commission from adopting a procedure, which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of the matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient to depart from the procedure specified in these Regulations.

53. Enquiry and Investigation.—All enquiries, investigations and adjudications under these Regulations shall be done by the Commission through the proceedings in accordance with the provisions of the Conduct of Business Regulations.

54. Power to Amend.—The Commission, for reasons to be recorded in writing, may at any time vary, alter or modify any of the provision of these Regulations by amendment.

55. Repeal & Savings.—(1) The H.P. Electricity Regulatory Commission (Terms and Conditions for determination of Tariff) Regulations, 2004 are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action already taken under the repealed regulations, shall in so far as it is not inconsistent with these Regulations deemed to have been done or taken under the corresponding provisions of these Regulations.

By Order of the Commission,

Secretary.

Appendix 1: Depreciation Schedule [see Regulation 25(2)]

Sl. No.	Asset Class	Useful Life (Years)	Rate (%)
1.	Land owned under full title	Infinity	0
2.	Land held under lease		
(A)	For investment in land	The period of lease or the period remaining unexpired on the Assignment of the lease.	0
(B)	For cost of clearing site	The period of lease remaining unexpired at the date of clearing the site.	0
3.	Assets Purchased New		
(A)	Plant and machinery in generating stations including plant foundations		
(i)	Hydro-electric	35	2.57
(ii)	Steam-electric NHRS & Waste Heat Recovery Boilers/Plants	25	3.60
(iii)	Diesel electric & gas plant	15	6.00
(B)	Cooling towers and circulating water systems	25	3.60
(C)	Hydraulic works forming part of hydro-electric system including:		
(i)	Dams, spillways weirs, canals, reinforced concrete flumes & siphons	50	1.80
(ii)	Reinforced concrete pipelines and surge tanks, steel pipelines, sluice gates, steel surge (tanks) hydraulic control valves and other hydraulic works.	35	2.57
(D)	Building & civil engineering works of a permanent character, not mentioned above:		
(i)	Offices & showrooms	50	1.80
(ii)	Containing thermo-electric generating plant	25	3.60
(iii)	Containing hydro-electric generating plant	35	2.57
(iv)	Temporary erection such as wooden structures	5	18.00
(v)	Roads other than kutchha roads	50	1.80
(vi)	Others	50	1.80
(E)	Transformers, transformer (kiosk) sub-station equipment & other fixed apparatus (including plant foundations).		
(i)	Transformers (including foundations) having a rating of 100 kilo volt amperes and over	25	3.60
(ii)	Others	25	3.60
(F)	Switchgear, including cable connections	25	3.60

Sl. No.	Asset Class	Useful Life (Years)	Rate (%)
(G)	Lightning arrestors:		
	(i) Station type	25	3.60
	(ii) Pole type	15	6.00
	(iii) Synchronous condenser	35	2.57
	(H) Batteries	5	18.00
	(I) Underground cable including joint boxes and disconnected boxes	35	2.57
(J)	Cable duct system	50	1.80
(K)	Overhead lines including supports:		
	(i) Lines on fabricated steel operating at nominal voltages higher than 66 kV	35	2.57
	(ii) Lines on steel supports operating at nominal voltages higher than 13.2 kV but not exceeding 66 kV.	25	3.60
	(iii) Lines on steel or reinforced concrete supports	25	3.60
	(iv) Lines on treated wood supports	25	3.60
(L)	Meters	15	6.00
(M)	Self propelled vehicles	5	18.00
(N)	Air conditioning plants:		
	(i) Static	15	6.00
	(ii) Portable	5	18.00
(O)			
	(i) Office furniture and fittings	15	6.00
	(ii) Office equipments	15	6.00
	(iii) Internal wirings including fittings and apparatus	15	6.00
	(iv) Street Light fittings	15	6.00
(P)	Apparatus let on hire:		
	(i) Other than motors	5	18.00
	(ii) Motors	15	6.00
(Q)	Communication equipment		
	(i) Radio and higher frequency carrier systems	15	6.00
	(ii) Telephone lines and telephones	15	6.00
(R)	Assets purchased in second hand and assets not otherwise provided for in the schedule.	Such reasonable period as the Commission determines in each case having regard to the nature, age and conditions of assets at the time of its acquisition by the owner.	

**HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION
SHIMLA**

NOTIFICATION

Shimla, the 28th June, 2007

No. HPERC/MYT/476/02.—In exercise of powers vested under sub-sections (zd), (ze) and (zf) of Section 181 (2) read with Sections 61, 62 and 86 of the Electricity Act, 2003 (36 of 2003) and all powers enabling it in that behalf, the Himachal Pradesh Electricity Regulatory Commission hereby makes the following draft Regulations for specifying the terms and conditions for determination of generation tariff which are hereby published as required by rule 3 of the Electricity (Procedure for Previous Publication) Rules, 2005 and by sub-section (3) of section 181 of the said Act, for the information of all the persons likely to be affected thereby; and notice is hereby given that the said draft Regulations will be taken into consideration after the expiry of thirty days from the date of their publication in the Rajpatra, Himachal Pradesh, together with any objections or suggestions which may within the aforesaid period be received in respect thereto.

The objections or suggestions in this behalf should be addressed to the Secretary, Himachal Pradesh Electricity Regulatory Commission, Keonthal Commercial Complex, Khalini, Shimla-171 002.

DRAFT REGULATIONS

PART-I

PRELIMINARY

1. Short title and commencement.—(1) These Regulations shall be called the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Hydro Generation Tariff) Regulations, 2007.

(2) These Regulations shall come into force from the date of their publication in the Rajpatra, Himachal Pradesh.

2. Scope and extent of application.—(1) These Regulations shall apply where the capital cost based tariff is determined by the Commission.

(2) Where tariff has been determined through the process of bidding in accordance with the guidelines issued by the Central Government, the Commission shall adopt such tariff in accordance with the provisions of the Act.

(3) These Regulations shall extend to the whole of the State of Himachal Pradesh.

3. Definitions and interpretation.—(1) In these Regulations, unless the context otherwise requires,—

(a) “Act” means the Electricity Act, 2003 (36 of 2003);

(b) “Annexure” means the annexure to these Regulations;

- (c) **“Applicant”** means a generating company who has made an application for determination of tariff or an application for annual performance review in accordance with the Act and these Regulations and includes a generating company whose tariff is the subject of a review by the Commission either *suo motu* or on a petition filed by any interested or affected person or as part of an annual performance review;
- (d) **“Auxiliary Energy Consumption”** or ‘AUX’ in relation to a period means the quantum of energy consumed by auxiliary equipment of the generating station, and shall be expressed as a percentage of the sum of gross energy generated at the generator terminals of all the units of the generating station;
- (e) **“Bank Rate”** shall mean the rate at which Reserve Bank of India lends to commercial banks as specified in monetary policy on April 1, of the relevant year;
- (f) **“Base Year”** means the Financial Year immediately preceding the first year of the Control Period, and used for the purposes of these Regulations;
- (g) **“Beneficiary”** in relation to a generating station means the person buying power generated at such a generating station on payment of Annual Capacity Charges;
- (h) **“Capacity Index”** or ‘CI’ means the average of daily capacity indices over one year;
- (i) **“Commission”** means the Himachal Pradesh Electricity Regulatory Commission;
- (j) **“Conduct of Business Regulations”** means the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005;
- (k) **“Control Period”** means a multi-year period fixed by the Commission from time to time, usually 5 years for which the principles of determination of revenue requirement and tariff will be fixed. However, the first control period shall be of the duration of 3 years;
- (l) **“Cut off Date”** in relation to a Generating Station, means the date of first Financial Year closing after one year of the Date of Commercial Operation of the generating station;
- (m) **“Daily Capacity Index”** means the declared capacity expressed as a percentage of the maximum available capacity for the day, and shall be mathematically expressed as:

$$\text{Declared Capacity (MW)} \times 100 / \text{Maximum Available Capacity (MW)}$$

Daily Capacity Index shall be limited to 100%;

- (n) **“Date of Commercial Operation”** or ‘COD’:

- (i) in relation to a unit means the date declared by the generator after demonstrating the Maximum Continuous Rating (MCR) or Installed Capacity (IC) through a successful trial run after notice to the Beneficiaries;

- (ii) in relation to the generating station means the Date of Commercial Operation of the last unit of the generating station in accordance with the clause (i) above;
- (o) **“Declared Capacity” or ‘DC’:**
- (i) For run-of-river power stations with pondage and storage-type power stations, means the ex-bus capacity in MW expected to be available from the generating station over the peaking hours of next day, as declared by the generator, taking into account the availability of water, optimum use of water and availability of machines (peaking hours for this purpose shall not be less than 3 hours within a 24 hour period); and
- (ii) For purely run-of-river power stations, means the ex-bus capacity in MW expected to be available from the generating station during the next day, as declared by the generating station, taking into account the availability of water, optimum use of water and availability of machines;
- (p) **“Deemed Generation”** means the energy which a generating station was capable of generating but could not generate due to conditions of grid or power system beyond the control of generating station resulting in spillage of water;
- (q) **“Design Energy”** means the quantum of energy which could be generated in a 90% dependable year with 95% installed capacity of the generating station;
- (r) **“Financial Year”** means a period commencing on 1st April of a calendar year and ending on 31st March of the subsequent calendar year;
- (s) **“Infirm Power”** means electricity generated prior to commercial operation of the unit of a generating station;
- (t) **“Installed Capacity” or ‘IC’** means the summation of the name plate capacities of all the units of the generating station or the capacity of the generating station (reckoned at the generator terminals) as approved by the Commission from time to time;
- (u) **“Maximum Available Capacity”** means the following;
- (i) For run-of-river power stations with pondage and storage-type power stations, means the maximum capacity in MW, that can be generated with all units running, under the prevailing conditions of water levels and flows, over the peaking hours of the next day (peaking hours for this purpose shall not be less than 3 hours within a 24 hour period); and
- (ii) For purely run-of-river power stations, means the maximum capacity in MW that can be generated with all units running, under the prevailing conditions of water levels and flows over the next day;
- (v) **“Primary Energy”** means the quantum of energy generated upto the design energy on per year basis at the generating station;

- (w) **“Project”** means a hydro generating station and include the complete hydro power generating facility covering all components such as dam, intake, water conductor system, power generating station and generating units of the scheme as apportioned to power generation;
- (x) **“Run-of-river Power Station”** means a hydro electric power generating station which has no upstream pondage;
- (y) **“Run-of-river Power Station with Pondage”** means a hydro electric power generating station with sufficient pondage for meeting the diurnal variation in power demand;
- (z) **“Saleable Primary Energy”** means the quantum of primary energy available for sale (ex-bus) after allowing for free energy to the State;
- (aa) **“Saleable Secondary Energy”** means the quantum of secondary energy available for sale (ex-bus) after allowing for free energy to the State;
- (bb) **“Scheduled Energy”** means the quantum of energy to be generated at the generating station over the 24 hours period, as scheduled by the State Load Despatch Centre;
- (cc) **“Secondary Energy”** means the quantum of energy generated in excess of the design energy on per year basis at the generating station;
- (dd) **“Storage Type Power Station”** means a hydro electric power generating station associated with large storage capacity to enable variation of generation of power according to demand;
- (ee) **“State Load Despatch Centre” or ‘SLDC’** means the centre established by the State Government for purposes of exercising the powers and discharging the functions under Section 31 of the Act;
- (ff) **“State”** means the State of Himachal Pradesh.

(2) Words and expressions used and not defined in these Regulations but defined in the Act shall have the meanings respectively assigned to them in the Act.

PART-II

GUIDING PRINCIPLES

4. General Approach.—(1) These Regulations shall apply in all cases of determination of generation tariff under section 62 of the Act, for supply of electricity to a distribution licensee by existing generating stations, but shall not apply where tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government as per the provisions of Section 63 of the Act.

(2) Subject to the provisions of the Act, Rules and Policies, any new generating station which comes up in future and proposes to supply electricity to a distribution licensee of the State shall be subjected to the

norms prescribed under these Regulations by the Commission, unless it proposes to supply electricity through bidding in accordance with the guidelines issued by the Central Government as per provisions of Section 63 of the Act.

(3) Tariff determined by the Commission and the directions given in the tariff order by the Commission shall be the *quid pro quo* and mutually inclusive. The tariff determined shall, within the period specified by it, be subject to the compliance of the directions to the satisfaction of the Commission and their non-compliance shall lead to such amendment, revocation, variations and alterations of the tariff, as may be ordered by the Commission.

(4) The tariff order shall unless amended or revoked, continue to be in force for such period as may be specified in the tariff order. In the event of failure on the part of the licensee to file the Aggregate Revenue Requirement (ARR) under Part-V, the tariff determined by the Commission shall cease to operate, unless allowed to be continued for a further period with such variations, or modifications, as may be ordered by the Commission.

5. Determination of Generation Tariff.—(1) Existing Generating Station—Where the Commission has, at any time prior to the notification of these Regulations, approved a Power Purchase Agreement (PPA) or arrangement between a generating company and a Beneficiary, or has adopted the tariff contained therein for supply of electricity from an existing generating station then the tariff for supply of electricity by the generating company to the distribution licensee shall be in accordance with such PPA or arrangement for such period as may be so approved or adopted by the Commission, to the extent of existing Installed Capacity as contained in the PPA.

(2) New Generating Station—Where the generating station has been declared under commercial operation from a date after April 1, 2007, the tariff for supply of electricity by the generating company shall be decided in accordance with these Regulations.

6. Multi Year Tariff (MYT) Framework.—(1) The Commission shall adopt Multi Year Tariff Framework for determination of tariff for each year of the Control Period.

(2) The Multi Year Tariff framework shall be based on the following :

- (a) **Business Plan** (with plant-wise details) for the entire Control Period, which the Applicant shall submit to the Commission for approval, prior to the start of the Control Period;
- (b) **Forecast of expected tariff for sale of power** which shall be submitted by the generating company (plant-wise) for each year of the Control Period, based on reasonable assumptions of the underlying financial and operational parameters, as submitted in the Business Plan;
- (c) **Trajectory for specific parameters**, stipulated by the Commission, where the performance of the Applicant is sought to be improved through incentives and disincentives;
- (d) **Annual Review of Performance**, which will be conducted *vis-à-vis* the approved forecast.

7. Determination of Baseline.—(1) The baseline values (operating and cost parameters) for the Control Period shall be determined by the Commission, based on previously approved values, latest audited accounts, estimate of actuals for the relevant year and other factors considered appropriate by the Commission.

(2) The Commission shall not revisit the performance targets even if the targets are fixed on the basis of un-audited accounts.

8. Capital Investment.—Subject to the provisions of the Act, rules and policies, the Commission shall approve the capital investment plan of a generating company for the Control Period commensurate with generation capacity growth. The investment plan shall also include a capitalisation schedule and financing plan for the planned investment. The Commission shall review the actual capital investment at the end of each year of the Control Period. Adjustment for the actual capital investment *vis-à-vis* approved capital investment shall be done at the end of Control Period.

9. Performance Targets.—(1) The Commission shall set targets for each year of the Control Period for the items or parameters that are deemed to be “controllable” and which include :

- (a) Capacity Index;
- (b) Auxiliary Energy Consumption;
- (c) Transformation Losses;
- (d) Operation and Maintenance Expenses;
- (e) Depreciation; and
- (f) Financing Cost which includes cost of debt (interest), cost of equity (return).

(2) Any financial loss on account of underperformance on targets for parameters specified in sub-regulation (1) is not recoverable through tariffs. Similarly, any financial gain on account of over-performance with respect to these parameters is to the generating company's benefit and shall not be adjusted in tariffs.

10. Refund of Excess Amount.—If a generating company recovers the charges exceeding the tariff determined by the Commission, the excess amount shall be refunded to Beneficiaries, which have paid such excess charges, alongwith interest for that period, which would be calculated considering the applicable Bank Rate.

PART-III

PRINCIPLES FOR DETERMINATION OF TARIFF

11. Capital Cost of the Project.—(1) Subject to prudence check by the Commission, the actual expenditure incurred on completion of the Project shall form the basis for determination of tariff. The tariff shall be determined based on the admitted capital expenditure actually incurred up to the Date of Commercial Operation of the generating station and shall include capitalised initial spares subject to a ceiling norm of 1.5% of the original project cost as on the Cut off Date:

Provided that where the power purchase agreement entered into between the generating company and the Beneficiaries provides a ceiling of actual expenditure, the capital expenditure shall not exceed such ceiling for determination of tariff :

Provided further that the project cost already admitted by the Commission for the purpose of tariff fixation in previous years, shall be considered as the original project cost.

(2) For multi-unit projects, the capital cost of the Project shall be broken up into stages and by distinct units forming part of the Project. In case the stage-wise or unit-wise break-up of the capital cost of the Project is not available and in case of on-going Projects, the common facilities shall be apportioned on the basis of the Installed Capacity of the units.

12. Additional Capitalisation.—(1) The Commission shall include, subject to prudence check, the following capital expenditure, incurred after the Date of Commercial Operation of a Project and upto the Cut off Date, to its original Project cost, provided the same was part of the original scope of work of the Project :

- (a) Deferred liabilities;
- (b) Works deferred for execution;
- (c) Procurement of initial capital spares in the original scope of work, subject to ceiling specified above;
- (d) Liabilities to meet award of arbitration or for compliance of the order or decree of a court; and
- (e) On account of change of law :

Provided that original scope of work alongwith estimates of expenditure shall be submitted alongwith the application for determination of tariff :

Provided further that a list of the deferred liabilities and works deferred for execution shall be submitted alongwith the application for determination of tariff after the Date of Commercial Operation of the generating station.

(2) The following capital expenditure, actually incurred after the Cut off Date shall be admitted by the Commission, subject to prudence check, to the original Project cost :

- (a) Deferred liabilities, related to works/services within the original scope of work of the Project;
- (b) Liabilities to meet award of arbitration or for compliance of the order or decree of a court;
- (c) On account of change of law; and
- (d) Any additional works/service which has become necessary for efficient and successful operation of the plant, but not included in the original Project cost.

Note-1.—Any expenditure admitted on account of committed liabilities within the original scope of work and the expenditure deferred on techno-economic grounds but falling within the original scope of work shall be serviced in the normative as specified in these Regulations.

Note-2.—Any expenditure on replacement of old assets shall be considered, subject to prudence check by the Commission, after writing off the gross value of the original assets from the original capital cost.

Note-3.—Any expenditure admitted by the Commission for determination of tariff on account of new works not in the original scope of work shall be serviced in the normative debt-equity ratio as specified in these Regulations.

13. Sale of Infirm Power.—Any revenue earned by the generating company from sale of Infirm Power, shall be taken as reduction in capital cost and shall not be treated as revenue. The rate of infirm power shall be the same as the primary energy rate of the generating station.

14. Debt-Equity Ratio.—(1) Existing Stations:

- (a) For existing generating stations, the amount of loan capital shall be equal to the sum of the outstanding balance of all long term loans taken to finance the generating station, at the commencement of the Financial Year for which tariff is to be determined, as reflected in the tariff orders of the Commission.
- (b) The equity capital shall be taken as specified by the generating company, subject to prudence check by the Commission.
- (c) Any fresh infusion of capital in the existing generating stations shall be considered only after prior approval by the Commission, and would have a debt : equity ratio of 70:30.

(2) New Stations:

- (a) The normative debt-equity ratio shall be considered to be 70:30 for determination of tariff.
- (b) In case of a generating station where equity employed is more than 30%, the amount of equity for determination of tariff shall be limited to 30% and the balance amount shall be considered as the normative loan.
- (c) In case of a generating station where actual equity employed is less than 30%, the actual debt and equity shall be considered for determination of tariff.

(3) Renovation and Modernisation :

Any approved capital expenditure incurred on renovation, modernisation, replacement or extension of life of existing generating assets, after the issue of these Regulations shall be considered to be financed at a normative debt-equity ratio of 70:30. In case the amount of equity is less than 30%, the actual debt-equity ratio shall be considered.

15. Interest and Finance Charges.—(1) Interest and finance charges on loan capital shall be computed on the outstanding loans, duly taking into account the schedule of repayment, as per the terms and conditions of relevant agreements of loan, bond or non convertible debentures. Exception can be made for the existing or past loans which may have different terms as per the agreements already executed if the Commission is satisfied that the loan has been contracted for and applied to identifiable and approved Projects.

(2) The interest rate on the amount of equity in excess of 30% treated as notional loan shall be the weighted average rate of the loans of the respective years and shall be further limited to the prescribed rate of return on equity in the Regulation :

Provided that all loans considered for this purpose shall be identified with the assets created :

Provided that interest and finance charges of re-negotiated loan agreements shall not be considered, if they result in higher charges :

Provided further that interest and finance charges on works in progress shall be excluded and shall be considered as part of the capital cost :

Provided further that neither penal interest nor overdue interest shall be allowed for computation of tariff.

(3) In case any moratorium period is availed of in any loan, depreciation provided for in the tariff during the years of moratorium shall be treated, as notional repayment of loan during those years and interest on loan capital shall be calculated accordingly.

(4) The generating station shall make every effort to refinance the loan as long as it results in net benefit to the Beneficiaries. The costs associated with such refinancing shall be borne by the Beneficiaries and any benefit on account of refinancing of loan and interest on loan shall be passed on to the Beneficiaries. Refinancing may also include restructuring of debt.

(5) In respect of foreign currency loans, variation in rupee liability due to foreign exchange rate variation, towards interest payment and loan repayment actually incurred, in the relevant year shall be admissible; provided it directly arises out of such foreign exchange rate variation and is not attributable to the Licensee or its suppliers or contractors.

16. Working Capital.—The Commission shall calculate the Working Capital requirement for hydro electric power stations containing the following components:

- (a) Operations and Maintenance expenses for one month;
- (b) Maintenance spares equivalent to 50 % of R&M expenses for 1 month;
- (c) Receivables equivalent to 2 months of fixed and variable charges for sale of electricity calculated on the normative Capacity Index.

17. Interest on working capital.—Rate of interest on working capital shall be on normative basis and shall be equal to the short-term Prime Lending Rate of SBI as on 1st April of the relevant year. The interest on working capital shall be payable on normative basis notwithstanding that the generating station has not taken working capital loan from any outside agency or has exceeded the working capital loan based on the normative figures.

18. Depreciation.—(1) Depreciation shall be calculated for each year of the Control Period, on the amount of Original Cost of the Fixed Assets :

Provided that depreciation shall not be allowed on assets funded by any capital subsidy/grant.

(2) Depreciation for each year of the Control Period shall be determined based on the methodology as specified in these Regulations along with the rates and other terms specified in Appendix 1 of these Regulations.

(3) Depreciation shall be calculated annually, based on the straight line method, over the useful life of the asset. The base value for the purpose of depreciation shall be original cost of the asset.

(4) The residual value of assets shall be considered as 10% and depreciation shall be allowed upto a maximum of 90% of the original cost of the asset. Land is not a depreciable asset and its cost shall be excluded while computing 90% of the original cost of the asset. In the event of Renovation and Modernisation expenditure affecting the life of the asset, the depreciation shall be allowed upto a maximum of 90% of the cost of the asset within the enhanced life span of the asset.

(5) Depreciation shall be charged from the first year of operation of the asset. In case, the operation of the asset is for a part of the year, depreciation shall be charged on a *pro rata* basis.

(6) On repayment of entire loan, the remaining depreciable value shall be spread over the balance useful life of the asset.

19. Return on equity.—(1) Return on equity shall be computed on the equity determined in accordance with regulation 14 and shall be 14% per annum (post tax) :

Provided that return on equity invested in work in progress shall be allowed from the Date of Commercial Operation :

Provided that equity invested in foreign currency shall be allowed a return upto the prescribed limit in the same currency and the payment on this account shall be made in Indian Rupees based on the exchange rate prevailing on the due date of billing.

(2) The premium raised by the generating company while issuing share capital and investment of internal resources created out of free reserve, if any, shall also be reckoned as equity for the purpose of computing return on equity, provided such premium amount and internal resources are actually utilized for meeting capital expenditure and forms part of the approved financial package. For the purposes of calculation

of computation of return, the portion of free reserves utilized for meeting the capital expenditure shall be considered from the date the asset created is productively deployed in the generation business.

20. Corporate Income Tax.—(1) Income Tax, if any, on the generation business of the generating company shall be treated as expense and shall be recoverable from its Beneficiaries. However, tax on any income other than that through the generation business shall not be a pass through in tariff, and it shall be payable by the generating company itself.

(2) Any under-recoveries or over-recoveries of tax on income shall be adjusted every year on the basis of income-tax assessment under the Income-Tax Act, 1961, as certified by the statutory auditors :

Provided that the generating station-wise profit before tax as estimated for a year in advance shall constitute the basis for distribution of the corporate tax liability to all the generating stations :

Provided further that the benefits of tax-holiday as applicable in accordance with the provisions of the Income-Tax Act, 1961 shall be passed on to the Beneficiaries :

Provided further that in the absence of any other equitable basis the credit for carry forward of losses and unabsorbed depreciation shall be given in the proportion as provided in the first proviso to this Regulation:

Provided further that income-tax allocated to the generating station shall be charged to the Beneficiaries in the same proportion as annual fixed charges.

(3) The income tax actually payable or paid shall be included in the tariff computation. The actual assessment of income tax should take into account benefits of tax holiday, and the credit for carry forward of losses applicable as per the provisions of the Income Tax Act, 1961 shall be passed on to the Beneficiaries.

(4) Tax on income, if any, liable to be paid shall be limited to tax on return on the equity component of capital deployed. However any tax liability on incentives and savings due to improved performance and UI earnings, if any, shall not be considered for passing on to the Beneficiaries.

21. Recovery of Corporate Income Tax.—(1) Recovery of income tax shall be done directly by the generating company from the Beneficiaries without making any application before the Commission:

Provided that in case of any objections by the Beneficiaries to the amounts claimed on account of income tax, the Beneficiaries shall make the payments and may make an appropriate application before the Commission for its decision.

22. Operation and Maintenance (O &M) expenses.—(1) Operation and Maintenance (O&M) expenses shall comprise the following :—

- (a) Salaries, wages, pension contribution and other employee costs;
- (b) Administrative and General costs;
- (c) Repairs and maintenance; and

- (d) Other miscellaneous expenses including insurance costs, statutory levies and taxes (except corporate income tax).

(2) The Applicant shall submit details on O&M expenses for each existing generating station, for the last five years, excluding abnormal operation and maintenance expenses. The O&M expenses for the Base Year shall be determined based on latest audited accounts/ actuals, estimates of the generating company for relevant years and other factors considered relevant.

(3) The O&M expenses permissible towards determination of tariff for each year of the Control Period shall be determined after prudence check by the Commission based on submissions of the generating company, previous years' actual expenses and any other factor considered relevant.

(4) For hydro power generating stations, which have been under operation for less than five years or which shall come into operation after the notification of these Regulations, the base O&M expenses shall be limited to 1.5% of the actual capital cost as admitted by the Commission, in the year of commissioning. The costs to be and shall be escalated at 4% per annum from the subsequent year to determine the O&M expenses for each year of the Control Period.

PART-IV

HYDRO ELECTRIC POWER GENERATING STATIONS

23. Operational Norms.—(1) The values for different operational norms for the existing generating plants shall be decided, considering the vintage and current operations of these plants, based on the submissions made by the Applicant, subject to prudence checks by the Commission.

(2) The Commission may modify these norms of operations after considering the capital investments approved for any Renovation and Modernisation activities in these plants.

(3) The norms of operation for generating stations shall be as under:

(a) Normative Capacity Index for recovery of full capacity charges:

During first year of commercial operation of the generating station.	Purely run-of-river power stations	85%
	Storage type and run-of-river power stations with pondage.	80%
After first year of commercial operation of the generating station	Purely run-of-river power stations	90%
	Storage type and run-of-river power stations with pondage.	85%

Note-1.—There shall be *pro rata* recovery of capacity charges in case the generating station achieves capacity index below the prescribed normative levels. At zero capacity index no capacity charges shall be payable to the generating station.

(b) Auxiliary Energy Consumption:

Surface hydro electric power generating station.	With rotating exciters mounted on the generator shaft.	0.2%
	With static excitation system	0.5 %
Underground Surface hydro electric power generating station	With rotating exciters mounted on the generator shaft.	0.4 %
With static excitation system	0.7 %	

(c) Transformation Losses:

From generation voltage to transmission voltage – 0.5 % of energy generated.

(4) The Commission may lay down relaxed operational norms including the norms of Capacity Index and Auxiliary Consumption contained in these Regulations for a generating station, and these relaxed norms shall be applicable for determination of tariff for such generating station during the Control Period.

(5) The norms of operation under these Regulations shall be ceiling norms and shall not preclude generating companies and the Beneficiaries from agreeing to improve norms of the operation. If PPA stipulates better norms of operation then such norms provided in the PPA shall be considered.

(6) In case of renovation and modernisation, derating and rerating of the generating station, norms of operation shall be reviewed and modified accordingly.

24. Computation of Annual Charges.—(1) The tariff for sale of electricity from a hydro power generating station shall comprise of recovery of annual capacity (fixed) charge and primary energy (variable) charges.

(2) *Capacity Charges:* The capacity charges shall be computed in accordance with the following formula:

$$\text{Capacity Charges} = (\text{Annual Fixed Charge} - \text{Primary Energy Charges})$$

Note.— Recovery through Primary Energy Charges shall not be more than Annual Fixed Charge.

(3) The Annual Fixed Charge of a hydro power generating station shall include the following elements :—

- (a) Operation and Maintenance Expenses;
- (b) Depreciation;
- (c) Interest on loans;
- (d) Interest on working capital; and
- (e) Return on Equity.

(4) Income, other than that through charges permitted by the Commission, and involving utilization of the Applicant's assets may be suitably accounted for by the Commission while determining the tariff.

25. Primary and Secondary Energy Charges.—(1) Primary energy charge shall be worked out on the basis of paise per kWh rate on ex-bus energy scheduled to be sent out from the hydroelectric power generating station after adjusting for free power delivered to the State.

(2) Rate of primary energy for all hydro electric power generating stations, except for pumped storage generating stations, shall be equal to the lowest variable charges of the central sector thermal power generating station of the Northern Region. The primary energy charge shall be computed based on the primary energy rate and saleable energy of the station :

Provided that in case the primary energy charge recoverable by applying the above primary energy rate exceeds the Annual Fixed Charge of a generating station, the primary energy rate for such generating station shall be calculated by the following formula:

$$\text{Primary Energy Rate} = \frac{\text{Annual Fixed Charge}}{\text{Saleable Primary Energy}}$$

$$\text{Primary Energy Charge} = \text{Saleable Primary Energy} \times \text{Primary Energy Rate}$$

Secondary Energy Rate shall be equal to Primary Energy Rate;

$$\text{Secondary Energy Charge} = \text{Saleable Secondary Energy} \times \text{Secondary Energy Rate.}$$

26. Incentive.—(1) Incentive shall be payable in case of all the generating stations, including in case of new generating stations in the first year of operation, when the capacity index (CI) exceeds 90% for purely run-of-river power generating stations and 85% for run-of-river power station with pondage or storage type power generating stations and incentive shall accrue upto a maximum capacity index of 100%.

(2) Incentive shall be payable to the generating company in accordance with the following formula:

$$\text{Incentive} = 0.65 \times \text{Annual Fixed Charge} \times (CI_A - CI_N)/100$$

(If incentive is negative, it shall be set to zero.)

Where, CI_A is the Capacity Index achieved and CI_N is the normative capacity index whose values are 90% for purely run of the river hydro stations and 85% for pondage/storage type hydro generating stations.

(3) The incentives on account of capacity index and payment for secondary energy shall be payable on monthly basis, subject to cumulative adjustment in each month of the Financial Year, separately in respect of each item, and final adjustment shall be made at the end of the Financial Year.

(4) The total incentive payment calculated on annual basis shall be shared by the Beneficiaries based on the allocated capacity.

27. Incentive for Completion of Hydro Power Generating Stations Ahead of Schedule.—In case of commissioning of a hydro electric power generating station or part thereof ahead of schedule, as set out in the first approval of the State Government or the techno-economic clearance of the Authority, as applicable, the generating station shall become eligible for incentive for an amount equal to *pro rata* reduction in interest during construction, achieved on commissioning ahead of the schedule. The incentive shall be recovered through tariff in twelve equal monthly installments during the first year of operation of the generating station. In case of delay in commissioning as set out in the first approval of the State Government or the techno-economic clearance of the Authority, as applicable, interest during construction for the period of delay shall not be allowed to be capitalised for determination of tariff, unless the delay is on account of natural calamities or geological surprises.

28. Deemed Generation.—(1) In case of reduced generation due to the reasons beyond the control of generating company or on account of non-availability of Transmission Licensee's transmission lines or on receipt of backing down instructions from the State Load Despatch Centre resulting in spillage of water, the energy charges on account of such spillage shall be payable to the generating company. Apportionment of energy charges for such spillage among the beneficiaries shall be in proportion of their shares in saleable capacity of the generating station.

(2) Energy charges on the above account shall not be admissible if the energy generated during the year is equal to or more than the design energy.

29. Unscheduled Interchange (UI) Charges.—The generating station may be entitled to receive or shall be required to bear, as the case may be, the charges for deviations between energy sent-out corresponding to Scheduled Generation and actual energy sent-out shall be accounted for through UI charges, as per the rate approved by the Central Commission/ State Commission.

30. Late Payment Surcharge.—In case the payment of bills of capacity charges and energy charges by the Beneficiary is delayed beyond a period of one month from the date of billing, the generating company shall levy a late payment surcharge at the rate of 1.25% per month.

31. Rebate.—For payment of bills of capacity charges and energy charges through a letter of credit on presentation, a rebate of 2% shall be allowed. If the payment is made by any other mode but within a period of one month of presentation of bills by the generating company, a rebate of 1% shall be allowed.

32. Scheduling.—Read with the provisions of the Indian Electricity Grid Code, the methodology of scheduling and calculating capacity index shall be as under:

- (1) The generator shall make an advance declaration of capacity of its generating station. The declaration shall be for that capacity which can be actually made available for a period of time not less than 3 hours within a 24 hours period for pondage and storage type of stations and for the entire day for purely run-of-river type stations.
- (2) The generator shall intimate the declared capacity (MW), for the next day, either as one figure for the whole day or different figures for different periods of the day along with maximum available capacity (MW) and total energy (MWh) ex-bus to the SLDC. The declaration should also include limitation on generation during specific time periods, if any, on account of restriction(s) on water use due to irrigation, drinking water, industrial, environmental considerations etc.

- (3) While making or revising his declaration of capability, the generator shall ensure that the declared capacity during peak hours is not less than that during other hours. However, exception to this rule shall be allowed in case of tripping/re-synchronisation of units as a result of forced outage of units.
- (4) Generation scheduling shall be done in accordance with the operating procedure, as stipulated in the Indian Electricity Grid Code.
- (5) Based on the declaration of the generator, the SLDC shall communicate their shares to the beneficiaries out of which they shall give their requisitions.
- (6) Based on the requisitions given by the beneficiaries and taking into account technical limitations on varying the generation and also taking into account transmission system constraints, if any, the SLDC shall prepare the economically optimal generation schedules and drawal schedules and communicate the same to the generator and the beneficiaries. The SLDC also formulate the procedure for meeting contingencies both in the long run and in the short run (Daily scheduling).
- (7) The scheduled generation and actual generation shall be ex-bus at the generating station. For beneficiaries, the scheduled and actual net drawals shall be at their respective receiving points.
- (8) For calculating the net drawal schedules of beneficiaries, the transmission losses shall be apportioned to their drawal schedule for the time being. However, a refinement may be specified by the Commission in future, depending upon the preparedness of the SLDC.
- (9) In case of forced outage of a unit, the SLDC shall revise the schedules on the basis of revised declared capability. The revised declared capability and the revised schedules shall become effective from the 4th time block, counting the time block in which the revision is advised by the generator to be the first one.
- (10) In the event of bottleneck in evacuation of power due to any constraint, outage, failure or limitation in the transmission system, associated switchyard and sub-stations owned by the State Transmission Utility (as certified by the SLDC) necessitating reduction in generation, the SLDC shall revise the schedules which shall become effective from the 4th time block, counting the time block in which the bottleneck in evacuation of power has taken place to be the first one. Also, during the first, second and third time blocks of such an event, the scheduled generation of the generating station shall be deemed to have been revised to be equal to actual generation, and the scheduled drawals of the beneficiaries shall be deemed to have been revised to be equal to their actual drawals.
- (11) In case of any grid disturbance, scheduled generation of all the generating stations and scheduled drawal of all the beneficiaries shall be deemed to have been revised to be equal to their actual generation/drawal for all the time blocks affected by the grid disturbance. Certification of grid disturbance and its duration shall be done by the SLDC.
- (12) Revision of declared capability by the generator(s) and requisition by beneficiary(ies) for the remaining period of the day shall also be permitted with advance notice. Revised schedules/declared capability in such cases shall become effective from the 6th time block, counting the time block in which the request for revision has been received in the SLDC to be the first one.

- (13) If, at any point of time, the SLDC observes that there is need for revision of the schedules in the interest of better system operation, it may do so on its own and in such cases, the revised schedules shall become effective from the 4th time block, counting the time block in which the revised schedule is issued by the SLDC to be the first one.
- (14) Generation schedules and drawal schedules issued/revised by the SLDC shall become effective from designated time block irrespective of communication success.
- (15) For any revision of scheduled generation, including post facto deemed revision, there shall be a corresponding revision of scheduled drawals of the beneficiaries.
- (16) A procedure for recording the communication regarding changes to schedules duly taking into account the time factor shall be evolved by the State Transmission Utility.
- (17) Purely run-of-river power stations: Since variation of generation in such stations may lead to spillage, these shall be treated as must run stations. The maximum available capacity, duly taking into account the over load capability, must be equal to or greater than that required to make full use of the available water.
- (18) *Run-of-river power station with pondage and storage type power stations:* These hydro stations are designed to operate during peak hours to meet system peak demand. Maximum available capacity of the station declared for the day shall be equal to the installed capacity including overload capability, minus auxiliary consumption and transformation losses, corrected for the reservoir level. The SLDC shall ensure that generation schedules of such type of stations are prepared and the stations despatched for optimum utilization of available hydro energy except in the event of specific system requirements/constraints.

33. Demonstration of Declared Capability.—(1) The generating company may be required to demonstrate the Declared Capacity of its generating station as and when asked by the SLDC. In the event of the generating company failing to demonstrate the Declared Capacity, the capacity charges due to the generating company shall be reduced as a measure of penalty, the quantum of which shall be determined by the Commission.

(2) The quantum of penalty for the first mis-declaration for any duration or block in a day shall be the charges corresponding to two days fixed charges. For the second mis-declaration the penalty shall be equivalent to fixed charges for four days and for subsequent mis-declarations, the penalty shall be multiplied in the geometrical progression.

(3) The operating log books of the generating station shall be available for review by the SLDC. These books shall keep record of machine operation and maintenance.

34. Metering and Accounting.—Metering arrangements, including installation, testing and operation and maintenance of meters and collection, transportation and processing of data required for accounting of energy exchanges and average frequency on 15 minute time block basis shall be provided by the STU/SLDC. All concerned entities (in whose premises the special energy meters are installed), shall fully cooperate with the STU/SLDC and extend the necessary assistance by taking weekly meter readings and transmitting them to the SLDC. Processed data of the meters along with data relating to Declared Capacity and schedules etc. shall be supplied by the SLDC to STU, which shall issue the State Accounts for energy on monthly basis as well as UI charges on weekly basis. UI accounting procedures shall be governed by the orders of the Commission.

35. Billing and Payment of Capacity charges.—(1) Billing and payment of capacity charges shall be done on a monthly basis in the following manner :—

- (a) Each beneficiary shall pay the capacity charges in proportion to its percentage share in total saleable capacity of the generating station. Saleable capacity shall mean total capacity minus free capacity to the State.
- (b) The beneficiaries shall have full freedom for negotiating any transaction for utilisation of their capacity shares. In such cases, the beneficiary having allocation in the capacity of the generating station shall be liable for full payment of capacity charges and energy charges (including that for sale of power under the transaction negotiated by him) corresponding to his total allocation and schedule respectively.
- (c) If any capacity remains un-requisitioned during day-to-day operation, the SLDC shall advise all beneficiaries in the State so that such capacity may be requisitioned through bilateral arrangements either with the concerned generating company or the concerned beneficiaries under intimation to the SLDC. The information regarding un-requisitioned capacity shall also be made available by the SLDC through its website.
- (d) The capacity charges shall be paid by the beneficiaries including those outside the State to the generating company every month in accordance with the following formulas and in proportion to their respective shares in the concerned generating station:

$$ACC_1 = AFC - (SPE_1 + DE_{2nd\ to\ 12th\ months}) * \text{Primary Energy Rate}$$

$$ACC_2 = AFC - (SPE_2 + DE_{3rd\ to\ 12th\ months}) * \text{Primary Energy Rate}$$

$$ACC_3 = AFC - (SPE_3 + DE_{4th\ to\ 12th\ months}) * \text{Primary Energy Rate}$$

$$ACC_4 = AFC - (SPE_4 + DE_{5th\ to\ 12th\ months}) * \text{Primary Energy Rate}$$

$$ACC_5 = AFC - (SPE_5 + DE_{6th\ to\ 12th\ months}) * \text{Primary Energy Rate}$$

$$ACC_6 = AFC - (SPE_6 + DE_{7th\ to\ 12th\ months}) * \text{Primary Energy Rate}$$

$$ACC_7 = AFC - (SPE_7 + DE_{8th\ to\ 12th\ months}) * \text{Primary Energy Rate}$$

$$ACC_8 = AFC - (SPE_8 + DE_{9th\ to\ 12th\ months}) * \text{Primary Energy Rate}$$

$$ACC_9 = AFC - (SPE_9 + DE_{10th\ to\ 12th\ months}) * \text{Primary Energy Rate}$$

$$ACC_{10} = AFC - (SPE_{10} + DE_{11th\ to\ 12th\ months}) * \text{Primary Energy Rate}$$

$$ACC_{11} = AFC - (SPE_{11} + DE_{12th\ month}) * \text{Primary Energy Rate}$$

$$ACC_{12} = (AFC - SPE_{12}) * \text{Primary Energy Rate}$$

Where,

AFC = Annual Fixed Charges

$ACC_1, ACC_2, ACC_3, ACC_4, ACC_5, ACC_6, ACC_7, ACC_8, ACC_9, ACC_{10}, ACC_{11}$ and ACC_{12} are the amount of Annual Capacity Charge for the cumulative period up to the end of 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, and 12th months respectively.

$SPE_1, SPE_2, SPE_3, SPE_4, \dots, SPE_{12}$ are the ex-bus scheduled primary energy values up to 1st, 2nd, 3rd, ..., 12th months of the year respectively.

$$CC1 = ACC_1 * \frac{DE1}{DE}$$

$$CC2 = ACC_2 * \frac{DE2}{DE}$$

$$CC3 = ACC_3 * \frac{DE3}{DE}$$

$$CC4 = ACC_4 * \frac{DE4}{DE}$$

$$CC5 = ACC_5 * \frac{DE5}{DE}$$

$$CC6 = ACC_6 * \frac{DE6}{DE}$$

$$CC7 = ACC_7 * \frac{DE7}{DE}$$

$$CC8 = ACC_8 * \frac{DE8}{DE}$$

$$CC9 = ACC_9 * \frac{DE9}{DE}$$

$$CC10 = ACC_{10} * \frac{DE10}{DE}$$

$$CC11 = ACC_{11} * \frac{DE11}{DE}$$

$$CC12 = ACC_{12} * \frac{DE12}{DE}$$

Where,

CC1, CC2, CC3, ..., CC12 is the monthly capacity charge upto 1st, 2nd, 3rd, ..., 12th months of the year respectively.

DE = Annual Design Energy

DE1, DE2, DE3, ..., DE12 are the ex-bus design energy values upto 1st, 2nd, 3rd, ..., 12th months of the year respectively.

Total capacity charges payable to the generator for the

1 st month	=(CC1)
2 nd month	=(CC2 - CC1)
3 rd month	=(CC3 - CC2)
4 th month	=(CC4 - CC3)
5 th month	=(CC5 - CC4)
6 th month	=(CC6 - CC5)
7 th month	=(CC7 - CC6)
8 th month	=(CC8 - CC7)
9 th month	=(CC9 - CC8)
10 th month	=(CC10 - CC9)
11 th month	=(CC11 - CC10)
12 th month	=(CC12 - CC11)

and, each beneficiary having firm allocation in capacity of the generating station shall pay for the:

1 st month	=[CC1 * WB1]/100
2 nd month	=[CC2 * WB2 - CC1 * WB1]/100
3 rd month	=[CC3 * WB3 - CC2 * WB2]/100
4 th month	=[CC4 * WB4 - CC3 * WB3]/100
5 th month	=[CC5 * WB5 - CC4 * WB4]/100
6 th month	=[CC6 * WB6 - CC5 * WB5]/100
7 th month	=[CC7 * WB7 - CC6 * WB6]/100
8 th month	=[CC8 * WB8 - CC7 * WB7]/100
9 th month	=[CC9 * WB9 - CC8 * WB8]/100
10 th month	=[CC10 * WB10 - CC9 * WB9]/100
11 th month	=[CC11 * WB11 - CC10 * WB10]/100
12 th month	=[CC12 * WB12 - CC11 * WB11]/100

Where,

And, WB1, WB2, WB3, WB4, WB5, WB6, WB7, WB8, WB9, WB10, WB11 and WB12 are the weighted average of percentage allocated capacity share of the beneficiary during the cumulative period upto 1st, 2nd 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th and 12th month respectively.

36. Safety Standards.—The generating company shall develop a Safety Manual and follow procedures to maintain minimum safety standards during construction, operation, etc. in line with the provisions of Section 53 of the Act.

PART-V

MULTI YEAR TARIFF FILING PROCEDURE

37. Multi-Year Filings for the Control Period.—(1) The Multi Year Tariff filing shall be in such form and in such manner as may be decided by the Commission and as per the provisions of Conduct of Business Regulations.

(2) The Applicant shall also submit the Multi Year Tariff filing in electronic format to the Commission.

38. Beginning of the Control Period—Business Plan Filings.—The generating company shall file for the Commission's approval; on 1st April of the year preceding the first year of the Control Period or any other date as may be directed by the Commission, a Business Plan approved by the Board of Directors. The Business Plan shall be for the entire Control Period and shall, *inter alia*, contain:

- (a) **Capital Investment Plan:** This shall include details of the investments planned by the generating company, along with the corresponding capitalisation schedule and financing plan. This plan shall be commensurate with capacity enhancement and proposed efficiency improvements for various plants of the Company;
- (b) **Capital Structure:** The generating company shall submit plant-wise details of the capital structure and cost of financing (interest on debt) and return on equity, after considering the existing market conditions, terms of the existing loan agreements, risks associated in generation business and creditworthiness;
- (c) **Operation and Maintenance (O&M) expenses:** This shall include the costs estimated for the Base Year, the actual expenses incurred in the previous two years and the projected values for each year of the Control Period based on the proposed norms for O&M cost, including indexation and other appropriate mechanisms;
- (d) **Depreciation:** This shall include details of depreciation based on the fair life of the asset and capitalisation schedules for each year of the Control Period;
- (e) **Performance Targets:** A set of targets proposed for other controllable items such as Capacity Index, Auxiliary Consumption, and Transformation Loss. The targets shall be consistent with the Capital Investment Plan proposed by the generating company;
- (f) **Other Information:** This shall include any other details considered appropriate by the generating company for consideration during determination of tariff.

39. Annual Filings during the Control Period – ARR and Tariff Filings.—The Applicant shall file the application for approval of generation tariff for each year of the Control Period consistent with the Business Plan, not less than 120 days before the commencement of the first year of the Control Period or such other date as may be directed by the Commission.

40. Review at the end of the Control Period.—(1) Towards the end of the Control Period, the Commission shall seek to review if the implementation of the principles laid down in these Regulations has achieved their intended objectives. While doing this, the Commission shall take into account, among other things, the industry structure, sector requirements, consumer and other stakeholder expectations and Applicant's requirements at that point in time. Depending on the requirements of the sector to meet the objects of the Act, the Commission may revise the principles for the second Control Period.

(2) The end of the first Control Period shall be the beginning of the second Control Period and the generating company shall follow the same procedure unless required otherwise by the Commission. The Commission shall analyse the performance of the generating company with respect to the targets set out at the beginning of the first Control Period and based on the actual performance, expected efficiency improvements and other factors prevalent, determine the initial values for the next Control Period.

41. Disposal of Application.—(1) The Commission shall process the filings made by the generating company in accordance with these Regulations and the Conduct of Business Regulations.

(2) Based on the generating company's filings, objections/ suggestions from public and other stakeholders, the Commission may, within 120 days of the receipt of the application, complete in all respects, and after considering all suggestions and objections from public and other stakeholders:—

- (a) issue, a tariff order with such modifications and/or such conditions as may be deemed just and appropriate containing, *inter alia* targets for controllable items and the generation tariffs for each year of the control period; or
- (b) reject the application for reasons to be recorded in writing if such application is not in accordance with the provisions of the Act and the rules and regulations made thereunder or the provisions of any other law for the time being in force.

42. Periodic Reviews.—(1) To ensure smooth implementation of the Multi Year Tariff (MYT) framework, the Commission may undertake periodic reviews of generating company's performance during the Control Period, to address any practical issues, concerns or unexpected outcomes that may arise.

(2) The generating company shall submit information as part of annual review on actual performance to assess the performance vis-à-vis the targets approved by the Commission at the beginning of the Control Period. This shall include annual statements of its performance and accounts including latest available audited/actual accounts, norms achieved and the tariff worked out in accordance with these Regulations.

(3) The Commission may also direct any modifications to the forecast of the generating company for the remainder of the Control Period, with detailed reasons for the same.

43. Publication.—The generating company shall publish the tariff approved by the Commission in the newspapers having circulation in the area of supply as the Commission may direct. The publication shall, besides such other things as the Commission may require, include a general description of the tariff changes and its effect on the classes of the consumers.

PART-VI

MISCELLANEOUS

44. Issue of Orders and Practice Directions.—(1) Subject to the provision of the Act and these Regulations, the Commission may, from time to time, issue Orders and Practice directions in regard to the implementation of these Regulations and procedure to be followed on various matters, which the Commission has been empowered by these Regulations to direct, and matters incidental or ancillary thereto.

(2) Notwithstanding anything contained in these Regulations, the Commission shall have the authority, either *suo motu* or on a petition filed by any interested or affected party, to determine the tariff of any Applicant.

45. Powers to remove difficulties.—If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by a general or special order, not being inconsistent with the provisions of these Regulations or the Act, do or undertake to do things or direct the generating company to do or undertake such things which appear to be necessary or expedient for the purpose of removing the difficulties.

46. Power of Relaxation.—The Commission may in public interest and for reasons to be recorded in writing, relax any of the provision of these Regulations.

47. Interpretation.—If a question arises relating to the interpretation of any provision of these Regulations, the decision of the Commission shall be final.

48. Saving of Inherent Powers of the Commission.—Nothing contained in these Regulations shall limit or otherwise affect the inherent powers of the Commission from adopting a procedure, which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of the matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient to depart from the procedure specified in these Regulations.

49. Enquiry and Investigation.—All enquiries, investigations and adjudications under these Regulations shall be done by the Commission through the proceedings in accordance with the provisions of the Conduct of Business Regulations.

50. Power to amend.—The Commission, for reasons to be recorded in writing, may at any time vary, alter or modify any of the provision of these Regulations by amendment.

By order of the Commission,

Sd/-

Secretary.

APPENDIX I
DEPRECIATION SCHEDULE
[see Regulation 18(2)]

Sl. No.	Asset Class	Useful Life (Years)	Rate (%)
1.	Land owned under full title	Infinity	0
2.	Land held under lease		
(A)	For investment in land	The period of lease or the period remaining unexpired on the Assignment of the lease.	0
(B)	For cost of clearing site	The period of lease remaining unexpired at the date of clearing the site.	0
3.	Assets Purchased New		
(A)	Plant and machinery in generating stations including plant foundations :		
	(i) Hydro-electric	35	2.57
	(ii) Steam-electric NHRS & Waste Heat Recovery Boilers/Plants.	25	3.60
	(iii) Diesel electric & gas plant	15	6.00
(B)	Cooling towers and circulating water systems	25	3.60
(C)	Hydraulic works forming part of hydro-electric system including:		
	(i) Dams, spillways weirs, canals, reinforced concrete flumes & siphons.	50	1.80
	(ii) Reinforced concrete pipelines and surge tanks, steel pipelines, sluice gates, steel surge (tanks) hydraulic control valves and other hydraulic works.	35	2.57
(D)	Building & civil engineering works of a permanent character, not mentioned above:		
	(i) Offices & showrooms	50	1.80
	(ii) Containing thermo-electric generating plant	25	3.60
	(iii) Containing hydro-electric generating plant	35	2.57
	(iv) Temporary erection such as wooden structures	5	18.00
	(v) Roads other than kutchha roads	50	1.80
	(vi) Others	50	1.80
(E)	Transformers, transformer (kiosk) sub-station equipment & other fixed apparatus (including plant foundations):		
	(i) Transformers (including foundations) having a rating of 100 kilo volt amperes and over.	25	3.60
	(ii) Others	25	3.60
(F)	Switchgear, including cable connections	25	3.60

Sl. No.	Asset Class	Useful Life (Years)	Rate (%)
(G)	Lightning arrestors:		
	(i) Station type	25	3.60
	(ii) Pole type	15	6.00
	(iii) Synchronous condenser	35	2.57
(H)	Batteries	5	18.00
(I)	Underground cable including joint boxes and disconnected boxes.	35	2.57
(J)	Cable duct system	50	1.80
(K)	Overhead lines including supports:		
	(i) Lines on fabricated steel operating at nominal voltages higher than 66 kV.	35	2.57
	(ii) Lines on steel supports operating at nominal voltages higher than 13.2 kV but not exceeding 66 kV.	25	3.60
	(iii) Lines on steel or reinforced concrete supports	25	3.60
	(iv) Lines on treated wood supports	25	3.60
(L)	Meters	15	6.00
(M)	Self propelled vehicles	5	18.00
(N)	Air conditioning plants:		
	(i) Static	15	6.00
	(ii) Portable	5	18.00
(O)	(i) Office furniture and fittings	15	6.00
	(ii) Office equipments	15	6.00
	(iii) Internal wirings including fittings and apparatus	15	6.00
	(iv) Street Light fittings	15	6.00
(P)	Apparatus let on hire:		
	(i) Other than motors	5	18.00
	(ii) Motors	15	6.00
(Q)	Communication equipment :		
	(i) Radio and higher frequency carrier systems	15	6.00
	(ii) Telephone lines and telephones	15	6.00
(R)	Assets purchased in second hand and assets not otherwise provided for in the schedule.	Such reasonable period as the Commission determines in each case having regard to the nature, age and conditions of assets at the time of its acquisition by the owner.	

**HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION
SHIMLA**

NOTIFICATION

Shimla-171002 the 28th June, 2007

No. HPERC/MYT/476/03.—In exercise of powers vested under sub-sections (zd), (ze) and (zf) of Section 181 (2) read with Sections 61, 62 and 86 of the Electricity Act, 2003 (36 of 2003) and all powers enabling it in that behalf, the Himachal Pradesh Electricity Regulatory Commission hereby makes the following draft Regulations for specifying the terms and conditions for determination of transmission tariff which are hereby published as required by rule 3 of the Electricity (Procedure for Previous Publication) Rules, 2005 and by sub-section (3) of section 181 of the said Act, for the information of all the persons likely to be affected thereby; and notice is hereby given that the said draft Regulations will be taken into consideration after the expiry of thirty days from the date of their publication in the Rajpatra, Himachal Pradesh, together with any objections or suggestions which may within the aforesaid period be received in respect thereto.

The objections or suggestions in this behalf should be addressed to the Secretary, Himachal Pradesh Electricity Regulatory Commission, Keonthal Commercial Complex, Khalini, Shimla-171 002.

DRAFT REGULATIONS

PART-I

PRELIMINARY

1. Short title and commencement.—(1) These Regulations shall be called the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2007.

(2) These Regulations shall come into force from the date of their publication in the Rajpatra, Himachal Pradesh.

2. Scope and Extent of Application.—(1) These Regulations shall apply where the capital cost based tariff is determined by the Commission.

(2) Where tariff has been determined through the process of bidding in accordance with the guidelines issued by the Central Government, the Commission shall adopt such tariff in accordance with the provisions of the Act.

(3) These Regulations shall extend to the whole of the State of Himachal Pradesh.

3. Definitions and interpretation.—(1) In these Regulations, unless the context otherwise requires—

(a) “Act” means the Electricity Act, 2003 (36 of 2003);

- (b) **“Aggregate Revenue Requirement”** or **“ARR”** means the costs pertaining to the Licenced Business which are permitted, in accordance with these Regulations, to be recovered from the tariffs and charges determined by the Commission;
- (c) **“Allotted Transmission Capacity”** means and include the power transfer in MW between the specified point(s) of injection and point(s) of drawal allowed to a long-term customer on the intra-state transmission system under the normal circumstances and the expression **“allotment of capacity”** shall be construed accordingly;
- Allotted Transmission Capacity to a Long Term Transmission Customer shall be sum of the generating capacities allocated to the Long Term Transmission Customer from the State Generating Stations and Inter State Generating Stations;
- (d) **“Allocation Statement”** means for each Financial Year, a statement in respect of each of the businesses (Transmission and SLDC Business) of the Licensee, showing the amounts of any revenue, cost, asset, liability, reserve or provision etc., which has been either,—
- (i) determined by apportionment or allocation between different businesses of the Licensee including the Licenced Business, together with a description of the basis of the apportionment or allocation; or
 - (ii) charged from or to each such Other Business together with a description of the basis of that charge;
- (e) **“Applicant”** means a Transmission Licensee who has made an application for determination of transmission charge in accordance with these Regulations and includes a Transmission Licensee whose tariff is the subject of a review by the Commission;
- (f) **“Availability”** in relation to a transmission system for a given period means the time in hours during that period in which the transmission system is capable to transmit electricity at its Rated Voltage and shall be expressed in percentage of total hours in the given period, and shall be calculated as directed by the Commission;
- (g) **“Base Year”** means the Financial Year immediately preceding first year of the Control Period;
- (h) **“Beneficiary”** means both Long Term Transmission Customers. A Distribution Licensee shall necessarily be a Long Term Transmission Customer for which he will be required to enter into a Transmission Services Agreement with the Transmission Licensee;
- (i) **“CERC”** means the Central Electricity Regulatory Commission;
- (j) **“Commission”** means the Himachal Pradesh Electricity Regulatory Commission;
- (k) **“Conduct of Business Regulations”** mean the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005;

- (l) **“Control Period”** means a multi-year period fixed by the Commission, from the date of issue of the Multi Year Tariff Order till 31st March, 2011;
- (m) **“Date of Commercial Operation” (COD)** means the date of charging the transmission system or part thereof to its Rated Voltage level, which shall be certified by the SLDC;
- (n) **“Distribution Licensee”** means a Licensee authorized to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply;
- (o) **“Financial Year”** means a period commencing on 1st April of a calendar year and ending on 31st March of the subsequent calendar year;
- (p) **“Licence”** means a Licence granted by the Commission under Section 14 of the Act;
- (q) **“Licenced Business”** means the functions and activities, which the Licensee is required to undertake in terms of the Licence granted by the Commission or as a deemed Licensee under the Act;
- (r) **“Licensee”** means a person who has been granted a Licence and shall include a deemed Licensee;
- (s) **“Long Term Transmission Customer”** means a person availing or intending to avail access to the intra-State transmission system for a period of five years or more;
- (t) **“Non-Tariff Income”** means income relating to the Licenced Business other than from tariff (intra-state transmission of electricity), and excluding any income from Other Business;
- (u) **“Other Business”** means any business of the Transmission Licensee other than the Licenced Business;
- (v) **“Open Access Customer”** means a consumer permitted by the Commission to receive supply of electricity from a person other than the distribution licensee of his area of supply, or a generating company (including captive generating plant) or a licensee, who has availed of or intends to avail of open access;
- (w) **“Rated Voltage”** means the voltage at which the transmission system is designed to operate or such lower voltage at which the line is charged, for the time being, in consultation with long-term transmission customers;
- (x) **“Short Term Transmission Customer”** means a transmission customer other than the Long Term Transmission Customer;
- (y) **“State Load Despatch Centre”** or ‘SLDC’ means the centre established by the State Government for purposes of exercising the powers and discharging the functions under Section 31 of the Act;

- (z) **“State”** means the State of Himachal Pradesh;
- (aa) **“Transmission Business”** means the authorised business of a transmission licensee to transmit electricity, whether for its own use or for that of any other person, through any system owned and/or operated by such licensee;
- (bb) **“Transmission Licensee”** means the entity, which has been granted a transmission licence or is a deemed licensee under the first, second, third or fifth provisos to section 14 of the Act authorising the transmission of electricity;
- (cc) **“Transmission Service Agreement”** means and includes the agreement, contract, memorandum of understanding, or any such covenants, entered into between the Transmission Licensee and the Long Term Transmission Customers;
- (dd) **“Transmission System”** means the system consisting mainly of extra high voltage electric lines having design voltage of 33 kV and higher, owned or controlled by the transmission licensee, and used for the purposes of the conveyance of electricity between the switchyards of two generating sets or from the switchyard of a generating set to a substation, or between substations, or to or from any external interconnection and includes all bays/equipment upto the interconnection with the distribution system, and any plant, apparatus and meters owned or used in connection with the transmission of electricity, but shall not include any part of a distribution system.

(2) Words and expressions used respectively and not defined in these Regulations but defined in the Act shall have the meanings respectively assigned to them in the Act.

PART-II

GUIDING PRINCIPLES

4. General Approach.—(1) Subject to the provisions of the Act, Rules and Policies, these Regulations shall apply in all cases of determination of transmission tariff under Section 62 of the Act. It shall however, not apply in the case where tariff has been determined through a transparent process of bidding in accordance with the guidelines issued by the Central Government as per the provisions of Section 63 of the Act.

(2) In accordance with the principles laid out in these Regulations, the Commission shall determine the Aggregate Revenue Requirement (ARR) for the Transmission Business.

(3) Tariff determined by the Commission and the directions given in the tariff order by the Commission shall be the quid pro quo and mutually inclusive. The tariff determined shall, within the period specified by it, be subject to the compliance of the directions to the satisfaction of the Commission and their non-compliance shall lead to such amendment, revocation, variations and alterations of the tariff, as may be ordered by the Commission.

(4) The tariff order shall unless amended or revoked, continue to be in force for such period as may be specified in the tariff order. In the event of failure on the part of the Licensee to file the Aggregate Revenue Requirement (ARR) under Part-III, the tariff determined by the Commission shall cease to operate, unless allowed to be continued for a further period with such variations, or modifications, as may be ordered by the Commission.

5. Multi Year Tariff (MYT) Framework.—(1) The Commission shall adopt Multi Year Tariff Framework for approval of ARR and expected revenue from tariffs and charges. The ARR and tariffs would be determined for the Control Period.

(2) The Multi Year Tariff framework shall be based on the following:

- (a) Business Plan of the Transmission Licensee for the entire Control Period to be submitted to the Commission for approval, prior to the start of the Control Period;
- (b) Trajectory for specific parameters shall be stipulated by the Commission, where the performance of the Applicant is sought to be improved through incentives and disincentives;
- (c) Annual review of performance will be conducted vis-à-vis the approved forecast.

6. Segregation of Transmission and SLDC Business.—(1) The Transmission Licensee shall segregate its business into Transmission Business and SLDC activity. The Transmission Business revenue requirement would be used for determining non-discriminatory transmission charges.

(2) Till such time there is a complete segregation of accounts between Transmission Business and SLDC Business, the ARR for each business shall be supported by an Allocation Statement containing the apportionment of all costs, revenues, assets, liabilities, reserves and provisions between the Transmission Business, SLDC activity and any Other Business of the Transmission Licensee. The Allocation Statement shall also contain the methodology used for the apportionment between different businesses.

7. Determination of Baseline.—(1) The baseline values (operating and cost parameters) for the Control Period shall be determined by the Commission and would be based on the latest audited accounts, last approved values by the Commission, estimate of the actuals for the relevant year, prudence check and other factors considered appropriate.

(2) The Commission will not revisit the performance targets, once determined even if the targets are fixed on the basis of un-audited accounts.

8. Capital Investment Plan.—The Commission shall approve the system augmentation/expansion plan submitted by the Transmission Licensee, based on the load growth forecast/generation evacuation requirement during the Control Period. The same would be considered for computation of ARR, wherein the amount of electricity transmitted by the Transmission System shall be projected considering the estimated growth plan of its beneficiaries and any plans of new transmission system, based on network expansion plans within the State. The capital investment plan shall be in conformity with the plans made by the CEA/CTU/STU/Distribution Licensee.

9. Targets for Controllable parameters.—The Commission will set targets for the items or parameters that are deemed to be “controllable” and which include:

- (a) Transmission Loss which is defined as difference between total energy input to the Transmission System and the total energy output at its distribution interfaces;
- (b) Availability of the Transmission System;
- (c) Operation and Maintenance Expenditure which includes employee expenses, repairs and maintenance expenses, administration and general expenses and other miscellaneous expenses viz. audit fees, rents, legal fees etc.;
- (d) Financing Cost which includes cost of debt including working capital (interest), cost of equity (return);
- (e) Depreciation.

10. Truing Up.—(1) For controllable parameters,

- (a) any surplus and deficit on account of O&M expenses shall be to the account of the Transmission Licensee and shall not be adjusted in ARR; and
- (b) Depreciation and Financing Cost shall be trued up at the end of Control Period. Truing-up shall be carried out based on the actual/audited information and prudence check by the Commission.

(2) Notwithstanding anything contained in this Regulation, the gains or losses in the controllable items of ARR on account of *force majeure* factors shall be passed on as an additional charge or rebate in ARR over such period as may be specified in the Order of the Commission.

11. Operational Norms.—The Commission shall specify suitable norms of operation for the Transmission Licensee in the Multi Year Tariff Order, based on the submission of the Business Plans. The parameter which shall be considered would cover, among others:

- (a) **Transmission System Availability.**—The target availability for recovery of full transmission charges shall be:
 - (i) The Alternating Current (AC) System: 98%;
 - (ii) The High Voltage Direct Current (HVDC) bi-pole links and the High Voltage Direct Current (HVDC) back-to-back stations: 95% :

Provided that recovery of fixed charges below the level of target availability shall be on pro rata basis. At zero availability, no transmission charges shall be payable :

Provided that Actual Availability shall be calculated in accordance with the procedure laid down in Himachal Pradesh Electricity Regulatory Commission (Charges for Transmission, Wheeling and Intervening Facilities and Fees and Charges to be collected by the State Load Despatch Centre) Regulations, 2006.

- (b) *Transmission Loss.*—Range of Transmission losses (upper and lower) for each year of the Control Period for the purpose of incentive/penalties. The transmission losses below the approved range shall earn an incentive and such incentive shall be added to the ARR relating to subsequent Control Period. Similarly increase in the actual Transmission losses beyond the approved range shall attract a penalty and such penalty shall be deducted from the ARR relating to subsequent Control Period.

PART-III

PRINCIPLES FOR DETERMINATION OF AGGREGATE REVENUE REQUIREMENT (ARR)

12. *ARR for Transmission Licensee.*—The Aggregate Revenue Requirement for the Transmission Business for each year of the Control Period shall contain the following items :—

- (a) Operation and Maintenance expenses;
- (b) Financing Cost which includes cost of debt including working capital (interest), cost of equity (return);
- (c) Depreciation;
- (d) Income Tax;
- (e) Non-Tariff Income ; and
- (f) Income from Other Business.

13. *Operation and Maintenance (O&M) Expenses.*—(1) Operation and Maintenance (O&M) expenses shall comprise the following :—

- (a) Salaries, wages, pension contribution and other employee costs;
- (b) Administrative and General expenses;
- (c) Repairs and Maintenance expenses;
- (d) Other miscellaneous expenses, statutory levies and taxes (except corporate income tax).

(2) The Transmission Licensee shall submit the O&M expenses for the Control Period as prescribed in multiyear tariff filing procedure. The O&M expenses for the Base Year will be approved by the Commission taking into account the latest available audited accounts, business plan filed by the Transmission Licensees, estimates of the actuals for the Base Year, prudence check and any other factor considered appropriate by the Commission.

(3) The O&M expenses for the n^{th} year of the Control Period shall be approved based on the formula shown below :—

$$(a) \quad O\&M_n = (R\&M_n + EMP_n + A\&G_n) * (1 - X_n)$$

$$(i) \quad \text{Where, } R\&M_n = K * GFA_{n-1}$$

$$(ii) \quad EMP_n + A\&G_n = (EMP_{n-1} + A\&G_{n-1}) * (INDX_n / INDX_{n-1}), \text{ and}$$

$$(iii) \quad INDX_n = 0.55 * CPI_n + 0.45 * WPI_n$$

Where,

'K' is a constant (could be expressed in %) governing the relationship between O&M costs and Gross Fixed Assets (GFA) for the n^{th} year. The value of K shall be specified in the MYT Order of the Commission;

$INDX_n$ – Inflation Factor to be used for indexing and shall be taken as the above given combination of the Consumer Price Index (CPI) and the Wholesale Price Index (WPI);

EMP_n – Employee Costs of the Transmission Licensee for the n^{th} year;

$A\&G_n$ – Administrative and General Costs of the Transmission Licensee for the n^{th} year;

$R\&M_n$ – Repair and Maintenance Costs of the Transmission Licensee for the n^{th} year;

X_n is an efficiency factor for n^{th} year. Value of X_n shall be determined by the Commission in the MYT Tariff Order based on Licensee's filings, benchmarking, approved cost by the Commission in past and any other factor that the Commission feels appropriate.

14. Asset Base.—(1) The Commission shall determine the Asset Base for each year of the control period at the beginning of the control period, which shall be:

Sum of:

- (a) The Asset Base of the Base Year as determined by the Commission considering the most recent audited accounts, estimates of actuals during the base year checked for prudence and any other factors considered appropriate by the Commission.
- (b) Proposed capitalisation during the year, checked for prudence covering (i) schemes for which Commission's approval has been granted, (ii) schemes which have been submitted for Commission's approval and (iii) schemes not requiring Commission's approval.

Less:

- (c) Assets proposed to be retired during the year.

(2) The interest on loan capital and return on equity shall be computed on the financing of the cost of schemes included in the asset base.

15. Debt-equity ratio.—(1) For the purpose of determination of tariff, the equity and outstanding debt as determined for the base year by the Commission shall be considered as given. However, for any fresh capitalization of assets, the Commission shall apply a debt-equity ratio of 70:30 on the capitalized amount as approved by the Commission for each year of the Control Period.

(2) Where equity employed is in excess of 30%, the amount of equity for the purpose of tariff shall be limited to 30% and the balance amount shall be considered as loan. The interest rate applicable on the equity in excess of 30% treated as loan has been specified in regulation 17. Where actual equity employed is less than 30%, the actual equity shall be considered.

16. Return on Equity.—(1) Return on equity shall be computed on the paid up equity capital determined in accordance with regulation 15 and shall be 14% per annum (post tax) :

Provided that return on equity invested in work in progress shall be allowed from the date of capitalization.

(2) The premium raised by the licensee while issuing share capital and investment of internal resources created out of free reserve, if any, shall also be reckoned as equity for the purpose of computing return on equity, provided such premium amount and internal resources are actually utilised for meeting capital expenditure. For the purposes of calculation of computation of return, the portion of free reserves utilized for meeting the capital expenditure shall be considered from the date the asset created is productively deployed in the transmission business.

(3) Equity invested in foreign currency shall be allowed a return upto the prescribed limit in the same currency and the payment on this account shall be made in Indian rupees based on the exchange rate prevailing on the due date of billing.

17. Interest and Finance Charges.—(1) Interest and finance charges on loan capital shall be computed on the outstanding loans, duly taking into account the schedule of repayment, and the interest rate, as per the terms and conditions of relevant agreements of loan, bond or non convertible debentures. Exception can be made for the existing or past loans which may have different terms as per the agreements already executed if the Commission is satisfied that the loan has been contracted for and applied to identifiable and approved projects. For the purpose of tariff determination, the outstanding debt at the end of each year of the Control Period shall be taken as:

Outstanding debt at the end of n^{th} year = Outstanding debt at the end of $(n-1)^{\text{th}}$ year + sum of amount of debt related to assets capitalized under each investment scheme during n^{th} year – debt repaid during n^{th} year;

For the first year of the control period, $(n-1)^{\text{th}}$ year shall be the base year;

Amount of debt related to assets capitalized under an investment scheme during n^{th} year = (70% or actual, whichever is higher) * (amount of capitalisation approved by the Commission for such scheme in n^{th} year) :

Provided that all loans considered for this purpose shall be identified with the assets created :

Provided that interest and finance charges of re-negotiated loan agreements shall not be considered, if they result in higher charges :

Provided further that interest and finance charges on works in progress shall be excluded and shall be considered as part of the capital cost :

Provided further that neither penal interest nor overdue interest will be allowed for computation of Annual Revenue Requirement.

(2) The interest rate on the amount of equity in excess of 30% treated as notional loan shall be the weighted average rate of the loans of the respective years and shall be further limited to the prescribed rate of return on equity in the Regulation.

(3) In case any moratorium period is availed of in any loan, depreciation provided for in the tariff during the years of moratorium shall be treated, as repayment during those years and interest on loan capital shall be calculated accordingly.

(4) The Transmission Licensee shall make every effort to refinancing the loan as long as it results in net benefit to the consumers. The cost associated with such refinancing shall be borne by the Beneficiaries and any benefit on account of refinancing of loan and interest on loan shall be shared equally between the Beneficiaries and the Licensee. The licensee shall submit the calculation of such benefit to the Commission for its approval.

(5) In respect of foreign currency loans, variation in rupee liability due to foreign exchange rate variation, towards interest payment and loan repayment actually incurred, in the relevant year shall be admissible; provided it directly arises out of such foreign exchange rate variation and is not attributable to the Licensee or its suppliers or contractors.

18. Working Capital.—(1) The Commission shall calculate the Working Capital requirement for the Transmission Licensee containing the following components :—

- (a) O&M expenses for 1 month;
- (b) Maintenance Spares @ 25% of the R&M Expense for one month; and
- (c) Receivables for 2 months based on the projected annual transmission charges.

19. Interest Charges on Working Capital.—Rate of interest on working capital to be computed as provided subsequently in these Regulations shall be on normative basis and shall be equal to the short-term Prime Lending Rate of SBI as on April 1 of the relevant year. The interest on working capital shall be payable on normative basis notwithstanding that the licensee has not taken working capital loan from any outside agency or has exceeded the working capital loan based on the normative figures.

20. Depreciation.—(1) Depreciation shall be calculated for each year of the Control Period, on the amount of Original Cost of the Fixed Assets of the corresponding year :

Provided that depreciation on assets funded by any capital subsidy/grant/consumer contribution shall not be allowed.

(2) Depreciation for each year of the Control Period shall be determined based on the methodology, rates and other terms as specified in Appendix 1 of these Regulations.

(3) Depreciation shall be calculated annually, based on the straight line method, over the useful life of the asset. The value base for the purpose of depreciation shall be original cost of the asset. Land is not a depreciable asset and its cost shall be excluded while computing 90% of the original cost of the asset.

(4) The residual value of assets shall be considered as 10% and depreciation shall be allowed to a maximum of 90% of the original cost of the asset.

(5) Depreciation shall be charged from the first year of operation of the asset. In case, the operation of the asset is for the part of the year, depreciation shall be charged on a *pro rata* basis.

21. Corporate Income Tax.—(1) Income Tax, if any, on the Licenced Business of the Transmission Licensee shall be treated as expense and shall be recoverable from its beneficiaries. However, tax on any income other than that through its Licenced Business shall not be a pass through, and it shall be payable by the Transmission Licensee itself.

(2) The income tax actually payable or paid shall be included in the tariff computation. The actual assessment of income tax should take into account benefits of tax holiday, and the credit for carry forward losses applicable as per the provisions of the Income Tax Act, 1961 shall be passed on to the Beneficiaries.

(3) Tax on income, if any, liable to be paid shall be limited to tax on return on equity. However any tax liability on incentives due to improved performance shall not be considered.

22. Recovery of Corporate Income Tax.—Recovery of income tax shall be done directly by the Transmission Licensee from the beneficiaries without making any application before the Commission :

Provided that in case of any objections by the beneficiaries to the amounts claimed on account of income tax, the beneficiaries shall make the payments and can make an appropriate application before the Commission for its decision.

23. Non-Tariff Income.—(1) All incomes being incidental to electricity business and derived by the Licensee from sources, including but not limited to profit derived from disposal of assets, rents, delayed payment surcharge, miscellaneous receipts from the Beneficiaries and income to Licenced business from the Other Business of the Transmission Licensee shall constitute Non-Tariff Income of the Licensee.

(2) The amount projected by the Licensee on account of Non-Tariff Income shall be deducted from the aggregate revenue requirement in calculating the net revenue requirement of the Licensee.

24. Other Income of the Transmission Licensee.—Where the Transmission Licensee is engaged in any other business, the income from such business will be calculated as per “Himachal Pradesh Electricity Regulatory Commission (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulations, 2005” and shall be deducted from the Aggregate Revenue Requirement in calculating the revenue requirement of the Transmission Licensee:

Provided that the Transmission Licensee shall follow a reasonable basis for allocation of all joint and common costs between the Transmission Business and the Other Business and shall submit the Allocation Statement as approved by the Board of Directors to the Commission along with his application for determination of tariff :

Provided further that where the sum total of the direct and indirect costs of such Other Business exceed the revenues from such Other Business or for any other reason, no amount shall be allowed to be added to the aggregate revenue requirement of the Transmission Licensee on account of such Other Business.

25. Refund of excess amount.—The licensee shall recover the charges as determined by the Commission. If any licensee recovers charges exceeding those determined by the Commission, the excess amount shall be refunded to the person who has paid such excess charges, along with interest equal to the prevalent short term Prime Lending Rate of the State Bank of India without prejudice to any other liability incurred by such licensee.

26. Incentive.—(1) The Transmission Licensee shall be entitled to incentive on achieving annual Availability beyond the Target Availability, in accordance with the following formula:—

$$\text{Incentive} = \text{TSC} * \frac{[\text{AA} - \text{TA}]}{[\text{TA}]}$$

Where,

TSC is the Annual Transmission Charge;

TA is the as Target Transmission System Availability (in percent) as defined in regulation 11;

AA is the actual Annual Availability (in percent) of the transmission system of the Transmission Licensee :

Provided that no incentive shall be payable above the availability of 99.75% for Alternating Current (AC) system and 98.5% for High Voltage Direct Current (HVDC) system.

(2) Incentive amount worked out from above in a year shall be added to the ARR of the following year and shall be spread over the Beneficiaries in the ratio of their Allotted Transmission Capacity for the year.

27. Late Payment Surcharge.—In case the payment of bills of transmission charges is delayed beyond a period of one month from the date of billing, the Transmission Licensee may levy a late payment surcharge at the rate of 1.25% per month.

28. Rebate.—For payment of bills of transmission charges through a letter of credit on presentation, a rebate of 2% shall be allowed. If the payment is made by any other mode but within a period of one month of presentation of bills by the Transmission Licensee, a rebate of 1% shall be allowed.

29. Quality of Supply.—(1) The Commission shall monitor the following Quality of Supply parameters during the Control Period:—

- (a) Transmission System Availability;
- (b) Transformer Failure, across various capacities which represents the number of transformer failures as a percentage of the total number of transformers in that specified capacity within the Transmission System, over a specified period of time.

(2) The Transmission Licensee in its Business Plan filings shall submit and propose the trajectory for the achievement of quality targets. The Commission will specify the targets for each parameter. The Transmission Licensee shall submit its performance on each parameter in the form and manner specified by the Commission.

30. Safety Standards.—The Transmission Licensee shall develop a Safety Manual and follow procedures to maintain atleast minimum safety standards during construction, operation, etc. in line with the provisions of Section 53 of the Act.

PART-IV

PRINCIPLES FOR DETERMINATION OF TRANSMISSION TARIFF/CHARGES

31. Separation of Transmission and SLDC functions.—The Transmission Licensee shall separate its business into transmission and SLDC functions, and segregate its accounts between these two businesses. Till the segregation of the accounts is completed, the Transmission Licensee shall submit an Allocation Statement that contains the apportionment of costs and revenues to that business. The Allocation Statement, approved by the Board of Directors of the Licensee, shall be accompanied with an explanation of the methodology for apportionment which should be consistent over the Control Period.

32. Transmission Tariff/Charges.—(1) The transmission charges payable by the beneficiaries of the Transmission System shall be designed to recover the Aggregate Revenue Requirement computed as Annual Transmission Charges by the Commission for each year of the Control Period.

(2) In addition to transmission charges, charges for reactive energy as may be specified by the Commission in the MYT order shall also be payable by all the beneficiaries of the system.

33. Allocation of Transmission Charges.—(1) The Annual Transmission Charges (TSC) shall be shared by all long term Beneficiaries of the Transmission System on monthly basis based on the Contracted Transmission Capacity.

(2) The transmission charges payable by a long-term transmission customer shall be determined in accordance with the following formula:—

$$MLTC = \{[(\text{Net ARR of the Transmission Licensee}/12) - 0.75 * \text{STI} - \text{ITFI}] / \text{TCL_LT}\} * \text{CL}$$

Where,

- (a) “MLTC” means Monthly Long-Term Transmission Charge in Rs./month;
- (b) “Net ARR” means Net Annual Revenue Requirement as determined in regulation 12;
- (c) “STI” means Income from Short-term customers of the transmission network, for the month, determined under sub-regulation (3);
- (d) “ITFI” means Income from provision for Intervening Transmission Facilities, for the month, determined under regulation 34;
- (e) “CL” means Contracted Capacity of the Transmission system by the Long-Term transmission Customer;
- (f) “TCL_LT” means Total Contracted Capacity of the Transmission system by all Long-term Transmission Customers;

(3) In the case of Short Term Open Access Customers, charges payable shall be calculated in accordance to following methodology:—

$$\text{ST_RATE} = 0.25 \times [\text{TSC} / \text{Av_CAP}] / 365;$$

Where,

ST_RATE is the rate for short-term open access customer in Rs per MW per day;

TSC is Annual Transmission Charge;

Av_CAP means the average capacity in MW served by the transmission system of the Transmission Licensee in the last Financial Year and shall be the sum of the generating capacities connected to the transmission system and contracted capacities of other transactions handled by the system of the Transmission Licensee;

(4) The transmission charges payable by a short-term customer in case of uncongested transmission corridor shall be levied as under, namely:—

- (a) upto 6 hours in a day in one block = $\frac{1}{4}$ th of ST_RATE;
- (b) more than 6 hours and upto 12 hours in a day in one block
= $\frac{1}{2}$ of ST_RATE;
- (c) more than 12 hours and upto 24 hours in a day in one block
= ST_RATE.

(5) 25% of the charges collected from the Short Term Open Access customer shall be retained by the Transmission Licensee and the balance 75% shall be considered as Non Tariff Income and adjusted towards reduction in the transmission service charges payable by the Beneficiaries.

34. Charges for intervening transmission facilities.—(1) The rates and charges for intervening transmission facilities, if any, provided by the licensee shall be as mutually agreed upon between the licensee and the users of such facilities:

Provided that the rates and charges agreed upon shall be fair and reasonable and may be allocated in proportion to the use of the transmission facilities.

(2) Mutual agreement on these matters would be in the best interest of the parties. In case, such agreement cannot be reached within a reasonable period of time, either party shall be entitled to approach the Commission for determination under the proviso to sub-section (1) of section 36 of the Act and the Commission would expect evidence that negotiations were held in good faith and all reasonable efforts were made to arrive at a mutual agreement.

(3) The parties shall be at liberty to approach the Commission in case of any dispute regarding the extent of surplus capacity available, as provided for in section 35 of the Act.

(4) An application shall be made to the Commission for an Order requiring any other licensee owning or operating intervening transmission facilities to provide their use to the extent of surplus capacity available with it.

(5) After an order is passed under sub-regulation (4), read with section 35 of the Act, the concerned licensee shall provide his intervening transmission facilities at rates, charges and on terms and conditions as may be mutually agreed upon, under section 36 of the Act.

STATE LOAD DESPATCH CENTRE (SLDC) FEES AND CHARGES

35. SLDC Charges.—(1) SLDC charges shall be payable by various utilities as may be determined by the Commission.

(2) The SLDC charges to be recovered from the generating companies and licensees engaged in intra-State transmission of electricity shall be determined taking into account the expenses as detailed in regulation 12 and any other expenses incidental to discharging the functions of the SLDC.

(3) The short-term open access customer shall also pay to the SLDC the operating charges as per the provisions of the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005.

36. Basis for collection of SLDC Charges.—The aggregate revenue requirement of the SLDC shall be arrived at in accordance with the aggregate revenue requirement calculations detailed in regulation 12 and 31, and shall first be divided into two equal parts – one to be recovered from the generating companies and the other from the licensees engaged in intra-State transmission of electricity. Thereafter, the allocation of charges to the individual generating companies shall be on the basis of installed generation capacity. The allocation of charges to individual licensees engaged in intra-State transmission of electricity shall be on the basis of the volume of energy wheeled through the transmission network.

37. Levy and collection of State Load Despatch Centre charges.—(1) The generating companies and the licensees shall pay to the SLDC, the annual charges in monthly instalments in advance.

(2) If the payment is not made within the due date, a penal interest at the rate of two percent per month shall be payable on the unpaid amounts.

(3) Disputes arising out of delay/non-payment of the SLDC Charges shall be, as far as possible, settled by mutual negotiations. If the disputes are not resolved through mutual negotiations within ninety days, the matter shall be referred to the Commission through a petition by either of the parties. The decision of the Commission shall be binding on both the parties.

38. Application for Connection to State Grid.—(1) The generating companies and licensees engaged in intra-State transmission of electricity, intending to get connected to the State Grid, shall submit an application to the SLDC in the specified format given in Appendix-2 at least one month before the proposed date of connection to the State Grid, along with fee of Rs. One Lakh.

(2) The SLDC, after scrutinising the application and after being satisfied of the completeness and correctness of the information furnished in the application, shall register the application in the SLDC records duly intimating the applicant regarding the acceptance and file a copy with the Commission. The SLDC shall file information about the generating companies and licensees engaged in the intra-State transmission of electricity connected to the State Grid and being monitored/ serviced by them, to the Commission every year by the 15th November.

39. Compliance with the directions by Transmission Licensee.—(1) Subject to the directions issued by the National Load Despatch Centre or the Regional Load Despatch Centre, the SLDC may, under sub-section (2) of section 32 and sub-section (1) of section 33, read with clause (b) of section 40 of the Act, give such directions as it may consider appropriate, for maintaining the availability of the transmission system and the transmission licensee shall duly comply with all such directions.

(2) The Commission, on an application filed by the SLDC and after hearing the transmission licensee, if satisfied that the transmission licensee has persistently failed to maintain the availability of the transmission system, may issue such directions to the SLDC to take control of the operations of the transmission system of such transmission licensee, for such period and on such terms, as the Commission may decide.

(3) The directions under sub-regulations (1) and (2) shall be without prejudice to any action which may be taken against the transmission licensee under other provisions of the Act.

PART-VI

MULTI YEAR TARIFF FILING PROCEDURE

40. Multi-Year Filings for the Control Period.—(1) The Multi Year Tariff filing shall be in such form and in such manner as may be decided by the Commission and as per the provisions of Conduct of Business Regulations.

(2) The Transmission Licensee shall also submit the Multi Year Tariff filing in electronic format to the Commission.

41. Beginning of the Control Period - Business Plan Filings.—The Transmission Licensee shall file for the Commission's approval, on 1st April of the year preceding the first year of the Control Period or any other date as may be directed by the Commission, a Business Plan approved by the Board of Directors. The Business Plan shall be for the entire Control Period and shall, inter alia, contain,—

- (a) **Capital Investment Plan.**—This should be commensurate with load growth and quality improvement proposed in the Business Plan. The investment plan should also include corresponding capitalisation schedule and financing plan;
- (b) The appropriate capital structure of each scheme proposed and cost of financing (interest on debt) and return on equity, terms of the existing loan agreements, etc;
- (c) **Operation and Maintenance (O&M) expenses.**—This shall include the costs estimated for the Base Year, the actual expenses incurred in the previous two years and the projected values for each year of the Control Period based on the proposed norms for O&M cost, including indexation and other appropriate mechanisms;
- (d) **Depreciation.**—Based on the fair life of the asset and capitalisation schedules for each year of the Control Period;

- (e) *Performance Targets.*—A set of targets proposed for controllable items such as Range of Transmission losses (upper and lower), Availability of transmission system, transformer failure rate, and any other parameters for quality of supply for each year of the Control Period for the purpose of incentive/penalties. The targets shall be consistent with the Capital Investment Plan proposed by the Transmission Licensee;
- (f) Proposals for Non-Tariff Income with item-wise description and details;
- (g) Proposals in respect of income from Other Business;
- (h) *Other Information.*—This shall include any other details considered appropriate by the Transmission Licensee for consideration during determination of tariff; and
- (j) SLDC Charges.

42. Annual Filings during the Control Period – ARR and Tariff Filings.—(1) The Transmission Licensee shall file an application for approval of transmission tariff for each year of the Control Period, not less than 120 days before the commencement of the first year of the Control Period or such other date as may be directed by the Commission.

(2) The filings for Transmission Tariff shall contain the following:—

- (a) The Transmission System or network usage forecast for each year of the Control Period, consistent with the Business Plan;
- (b) Proposals for transmission tariff design for each year of the Control Period, including the losses to be charged and the procedure thereof;
- (c) Proposal for transmission tariff rate for the each year of the Control Period supported by adequate justification;
- (d) Proposal for reactive energy charges;
- (e) Proposal for SLDC charges;
- (f) Expected Revenue from the Licenced Business, Non-Tariff Income and income from Other Business and other matters considered appropriate by the Transmission Licensee.

43. Review at the end of the Control Period.—(1) Towards the end of the Control Period, the Commission shall seek to review if the implementation of the principles laid down in these Regulations has achieved their intended objectives. While doing this, the Commission shall take into account, among other things, the industry structure, sector requirements, consumer and other stakeholder expectations and Licensee's requirements at that point in time. Depending on the requirements of the sector to meet the objects of the Act, the Commission may revise the principles for the second Control Period.

(2) The end of the first Control Period shall be the beginning of the second Control Period and the Licensee shall follow the same procedure unless required otherwise by the Commission. The Commission shall analyse the performance of the Licensee with respect to the targets set out at the beginning of the first Control Period and based on the actual performance, expected efficiency improvements and other factors prevalent, determine the initial values for the next Control Period.

44. Disposal of Application.—(1) The Commission will process the filings made by the Transmission Licensee in accordance with these Regulations and the Conduct of Business Regulations.

(2) Based on the transmission licensee's filings, objections/suggestions from public and other stakeholders, the Commission may within 120 days of the receipt of the application, complete in all respects, and after considering all suggestions and objections from public and other stakeholders :

- (a) issue, a tariff order with such modifications and/or such conditions as may be deemed just and appropriate containing, *inter alia* targets for controllable items and the transmission tariffs for each year of the control period; or
- (b) reject the application for reasons to be recorded in writing if such application is not in accordance with the provisions of the Act and the rules and Regulations made thereunder or the provisions of any other law for the time being in force.

45. Periodic Reviews.—(1) To ensure smooth implementation of the Multi Year Tariff (MYT) framework, the Commission may undertake periodic reviews of Transmission Licensees' performance during the Control Period, to address any practical issues, concerns or unexpected outcomes that may arise.

(2) The Transmission Licensee shall submit information as part of annual review on actual performance to assess the performance vis-à-vis the targets approved by the Commission at the beginning of the Control Period. This shall include annual statements of its performance and accounts including latest available audited/actual accounts and the tariff worked out in accordance with these Regulations.

(3) The Commission may also direct any modifications to the forecast of the Transmission Licensee for the remainder of the Control Period, with detailed reasons for the same.

46. Publication.—The transmission licensee shall publish the tariff approved by the Commission in the newspapers having circulation in the area of supply as the Commission may direct. The publication shall, besides such other things as the Commission may require, include a general description of the tariff changes and its effect on the classes of the consumers.

PART-VII

MISCELLANEOUS

47. Issue of Orders and Practice Directions.—(1) Subject to the provision of the Act and these Regulations, the Commission may, from time to time, issue Orders and Practice directions in regard to the implementation of these Regulations and procedure to be followed on various matters, which the Commission has been empowered by these Regulations to direct, and matters incidental or ancillary thereto.

(2) Notwithstanding anything contained in these Regulations, the Commission shall have the authority, either *suo motu* or on a petition filed by any interested or affected party, to determine the tariff of any Licensee.

48. Powers to remove difficulties.—In case of any difficulty in giving effect to any of the provisions of these Regulations, the Commission may, either *suo motu* or on an application made to it, do or undertake to do things, or by general or special order direct the licensee to take suitable action, not being inconsistent with the Act, which appears to the Commission to be necessary or expedient for the purpose of removing the difficulty.

49. Power of Relaxation.—The Commission may in public interest and for reasons to be recorded in writing, relax any of the provision of these Regulations.

50. Interpretation.—All issues arising in relation to interpretation of these Regulations shall be determined by the Commission and the decision of the Commission on such issues shall be final.

51. Saving of Inherent Powers of the Commission.—Nothing contained in these Regulations shall limit or otherwise affect the inherent powers of the Commission from adopting a procedure, which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of the matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient to depart from the procedure specified in these Regulations.

52. Enquiry and Investigation.—All enquiries, investigations and adjudications under these Regulations shall be done by the Commission through the proceedings in accordance with the provisions of the Conduct of Business Regulations.

53. Power to Amend.—The Commission, for reasons to be recorded in writing, may at any time vary, alter or modify any of the provision of these Regulations by amendment.

54. Repeal & Savings.—(1) The H.P. Electricity Regulatory Commission (Charges for Transmission, Wheeling and intervening facilities and Fee and Charges to be collected by the State Load Despatch Centre) Regulations, 2006 are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action already taken under the repealed Regulations, shall in so far as it is not inconsistent with these Regulations deemed to have been done or taken under the corresponding provisions of these Regulations.

By order of the Commission,

Sd/-
Secretary.

APPENDIX I
DEPRECIATION SCHEDULE
[see Regulation 20(2)]

Sl. No.	Asset Class	Useful Life (Years)	Rate (%)
1.	Land owned under full title	Infinity	0
2.	Land held under lease		
(A)	For investment in land	The period of lease or the period remaining unexpired on the Assignment of the lease.	0
(B)	For cost of clearing site	The period of lease remaining unexpired at the date of clearing the site.	0
3.	Assets Purchased New		
(A)	Plant and machinery in generating stations including plant foundations :		
	(i) Hydro-electric	35	2.57
	(ii) Steam-electric NHRS & Waste Heat Recovery Boilers/Plants.	25	3.60
	(iii) Diesel electric & gas plant	15	6.00
(B)	Cooling towers and circulating water systems	25	3.60
(C)	Hydraulic works forming part of hydro-electric system including:		
	(i) Dams, spillways weirs, canals, reinforced concrete flumes & siphons.	50	1.80
	(ii) Reinforced concrete pipelines and surge tanks, steel pipelines, sluice gates, steel surge (tanks) hydraulic control valves and other hydraulic works.	35	2.57
(D)	Building & civil engineering works of a permanent character, not mentioned above:		
	(i) Offices & showrooms	50	1.80
	(ii) Containing thermo-electric generating plant	25	3.60
	(iii) Containing hydro-electric generating plant	35	2.57
	(iv) Temporary erection such as wooden structures	5	18.00
	(v) Roads other than kutcha roads	50	1.80
	(vi) Others	50	1.80
(E)	Transformers, transformer (kiosk) sub-station equipment & other fixed apparatus (including plant foundations):		
	(i) Transformers (including foundations) having a rating of 100 kilo volt amperes and over.	25	3.60
	(ii) Others	25	3.60
(F)	Switchgear, including cable connections	25	3.60

Sl. No.	Asset Class	Useful Life (Years)	Rate (%)
(G)	Lightning arrestors:		
	(i) Station type	25	3.60
	(ii) Pole type	15	6.00
	(iii) Synchronous condenser	35	2.57
(H)	Batteries	5	18.00
(I)	Underground cable including joint boxes and disconnected boxes.	35	2.57
(J)	Cable duct system	50	1.80
(K)	Overhead lines including supports:		
	(i) Lines on fabricated steel operating at nominal voltages higher than 66 kV	35	2.57
	(ii) Lines on steel supports operating at nominal voltages higher than 13.2 kV but not exceeding 66 kV.	25	3.60
	(iii) Lines on steel or reinforced concrete supports	25	3.60
	(iv) Lines on treated wood supports	25	3.60
(L)	Meters	15	6.00
(M)	Self propelled vehicles	5	18.00
(N)	Air conditioning plants:		
	(i) Static	15	6.00
	(ii) Portable	5	18.00
(O)	(i) Office furniture and fittings	15	6.00
	(ii) Office equipments	15	6.00
	(iii) Internal wirings including fittings and apparatus	15	6.00
	(iv) Street Light fittings	15	6.00
(P)	Apparatus let on hire:		
	(i) Other than motors	5	18.00
	(ii) Motors	15	6.00
(Q)	Communication equipment		
	(i) Radio and higher frequency carrier systems	15	6.00
	(ii) Telephone lines and telephones	15	6.00
(R)	Assets purchased in second hand and assets not otherwise provided for in the schedule.	Such reasonable period as the Commission determines in each case having regard to the nature, age and conditions of assets at the time of its acquisition by the owner.	

APPENDIX-'2'
(See regulation 38)

APPLICATION FOR REGISTRATION FOR CONNECTION WITH THE STATE GRID

Sl. No. Particulars

- (i) Name of the Generating Company/Licensee
- (ii) Registered Address
- (iii) Phone No./Fax/E-mail Id
- (iv) Generating Capacity: In case of Generating Station Installed Capacity (in MWs)
- (v) Transmission Capacity: In case of Transmission Network the volume of energy handled (in MUs)
- (vi) Proposed date of Connection with the State Grid
- (vii) Details of Inter-connection point (enclose separate sheet if necessary)
- (viii) DD No. and Date towards Registration Fee payable to State Load Despatch Centre
- (ix) Undertaking:

We hereby undertake to abide by the instructions issued by the State Load Dispatch Centre for Grid Management.

Signature of the Authorised Officer.

Note.—The State Load Despatch Centre may prescribe and collect necessary technical details from the Generating Companies and Transmission Companies separately.

